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13 Inc. and Ensign Services, Inc. (erroneously
14 sued as Ensign Facility Services, Inc.)*

15 UNITED STATES DISTRICT COURT
16 CENTRAL DISTRICT OF CALIFORNIA

17 UNITED STATES OF AMERICA and
18 STATE OF CALIFORNIA, *ex rel.*
19 SHARON GINGER,

20 Plaintiffs,
21 v.
22

23 THE ENSIGN GROUP, INC. and
24 ENSIGN FACILITY SERVICES,
25 INC.,

26 Defendants.
27
28

CASE NO. 8:15-cv-00389-JWH-DFM
Hon. John W. Holcomb

**DEFENDANTS THE ENSIGN GROUP,
INC.'S AND ENSIGN SERVICES,
INC.'S ANSWER TO RELATOR'S
SECOND AMENDED COMPLAINT**

1 Defendants The Ensign Group, Inc. (“Ensign Group”) and Ensign Services,
 2 Inc. (“Ensign Services”) (erroneously sued as Ensign Facility Services, Inc.)
 3 (together, “Defendants”) hereby answer the Second Amended Complaint of Relator
 4 Sharon Ginger (“Relator”). Defendants generally deny each and every allegation
 5 except those hereinafter specifically admitted. Defendants have included the
 6 headings reflected in Relator’s Second Amended Complaint to aid the Court in
 7 reviewing Defendants’ Answer. To the extent these headings include factual
 8 allegations, Defendants expressly deny each and every allegation. On March 29,
 9 2022, the Court dismissed Relator’s third claim for relief with prejudice. Dkt. 139.
 10 There are many allegations that clearly relate to the dismissed claim that are now
 11 surplusage and do not require a response. Defendants also note that Relator was
 12 employed in the Contracts Department of Ensign Services and had access to
 13 privileged materials. To the extent that Relator’s allegations in the Second Amended
 14 Complaint rely, implicitly or otherwise, on privileged communications or any other
 15 privileged material Relator had access to by virtue of her position at Ensign Services,
 16 Defendants state that Relator is barred from violating privilege and improperly
 17 relying on privileged communications and materials, and on that basis neither admit
 18 nor deny allegations relating to those conversations or materials. Defendants further
 19 answer the numbered Paragraphs of the Second Amended Complaint as follows:

20 **I. INTRODUCTION**

21 1. The allegations in Paragraph 1 describe the Second Amended
 22 Complaint, a legal document, which speaks for itself and to which no response is
 23 required. To the extent required, Defendants admit that Relator purports to bring
 24 this this action on behalf of the United States of America and the State of California
 25 (collectively, the “Government”). Defendants deny that Relator has stated a claim
 26 against Defendants or that discovery will yield evidentiary support for Relator’s
 27 allegations against Defendants. Defendants otherwise deny the remaining
 28 allegations in Paragraph 1.

1 2. The allegations in Paragraph 2 state legal conclusions to which no
 2 response is required. To the extent required, Defendants deny that Relator has stated
 3 a claim against Defendants or that discovery will yield evidentiary support for
 4 Relator's allegations against Defendants. Defendants otherwise deny the remaining
 5 allegations in Paragraph 2.

6 3. The allegations in Paragraph 3 state legal conclusions to which no
 7 response is required. To the extent required, Defendants deny that Relator has stated
 8 a claim against Defendants or that discovery will yield evidentiary support for
 9 Relator's allegations against Defendants. Defendants are further without sufficient
 10 knowledge or information to admit or deny the allegations in the first sentence of
 11 Paragraph 3 because there is no entity known as "Ensign," Defendants deny that
 12 Ensign Group and Ensign Services are the same entity and deny that the Defendants
 13 and the independently operated skilled nursing and assisted living facilities (the
 14 "SNFs") are one entity, and on that basis deny said allegations. Defendants
 15 otherwise deny the remaining allegations in Paragraph 3.

16 **A. Defendants' Fraudulent Schemes**

17 4. Defendants deny heading I.A. Defendants admit that The Ensign
 18 Group was established in or about 1999. Defendants admit that there are over 140
 19 SNFs affiliated with The Ensign Group. Defendants admit that many of the affiliated
 20 independently operated SNFs are located in the Western and Southwestern United
 21 States. Defendants are otherwise without sufficient knowledge or information to
 22 admit or deny the remaining allegations in Paragraph 4 because there is no entity
 23 known as "Ensign," Defendants further deny that Ensign Group and Ensign Services
 24 are the same entity and deny that the Defendants and the independently operated
 25 SNFs are one entity, and on that basis deny said allegations.

26 5. Defendants admit that certain members of the administration of the
 27 independently operated SNFs have attended certain trainings provided by Ensign
 28 Services. Defendants are without sufficient knowledge or information to admit or

1 deny the remaining allegations in Paragraph 5 because there is no entity known as
 2 “Ensign,” Defendants deny that Ensign Group and Ensign Services are the same
 3 entity and deny that the Defendants and the independently operated SNFs are one
 4 entity, and on that basis deny said allegations.

5 6. Defendants admit that The Ensign Group entered into a corporate
 6 integrity agreement (“CIA”) with the HHS Office of the Inspector General (“HHS-
 7 OIG”) in October 2013. Defendants are without sufficient knowledge or information
 8 to admit or deny the remaining allegations in Paragraph 6 because there is no entity
 9 known as “Ensign,” Defendants deny that Ensign Group and Ensign Services are the
 10 same entity and deny that the Defendants and the independently operated SNFs are
 11 one entity, and on that basis deny said allegations.

12 7. The allegations in the first sentence of Paragraph 7 describe the Second
 13 Amended Complaint, a legal document, which speaks for itself and to which no
 14 response is required. To the extent required, Defendants are without sufficient
 15 knowledge or information to admit or deny the allegations in the first sentence of
 16 Paragraph 7 because there is no entity known as “Ensign,” Defendants deny that
 17 Ensign Group and Ensign Services are the same entity and deny that the Defendants
 18 and the independently operated SNFs are one entity, and on that basis deny said
 19 allegations. Ensign Services admits that Relator worked as Contracts Manager for
 20 it from November 4, 2013 through June 5, 2015, and further admits that some of
 21 Relator’s responsibilities included reviewing, tracking, and monitoring certain
 22 contracts entered into by the independently operated SNFs. Ensign Services admits
 23 that Relator participated in Ensign Services’ Compliance Committee meetings at
 24 various points in time during the course of her employment. Defendants otherwise
 25 deny the remaining allegations in Paragraph 7.

26 8. The allegations in the first sentence of Paragraph 8 describe the Second
 27 Amended Complaint, a legal document, which speaks for itself and to which no
 28 response is required. The allegations in Paragraph 8 further state legal conclusions

1 to which no response is required. To the extent required, Defendants are otherwise
 2 without sufficient knowledge or information to admit or deny the allegations in
 3 Paragraph 8 because there is no entity known as “Ensign,” Defendants deny that
 4 Ensign Group and Ensign Services are the same entity and deny that the Defendants
 5 and the independently operated SNFs are one entity, and on that basis deny said
 6 allegations.

7 9. The allegations in Paragraph 9 describe the Second Amended
 8 Complaint, a legal document, which speaks for itself and to which no response is
 9 required. To the extent required, Defendants are otherwise without sufficient
 10 knowledge or information to admit or deny the allegations in Paragraph 9 because
 11 there is no entity known as “Ensign,” Defendants deny that Ensign Group and Ensign
 12 Services are the same entity and deny that the Defendants and the independently
 13 operated SNFs are one entity, and on that basis deny said allegations.

14 10. The allegations in Paragraph 10 describe the Second Amended
 15 Complaint, a legal document, which speaks for itself and to which no response is
 16 required. To the extent the allegations in Paragraph 10 purport to describe a
 17 document or documents, such documents speak for themselves and, as such, no
 18 response is required. Defendants otherwise deny the allegations to the extent they
 19 vary from the written terms of the document or documents, and deny that Relator’s
 20 characterization of the document or documents is accurate. To the extent required,
 21 Defendants are otherwise without sufficient knowledge or information to admit or
 22 deny the remaining allegations in Paragraph 10 and on that basis deny said
 23 allegations.

24 11. Defendants admit that Charlie Jenkins was at one time the
 25 Administrator at Premier Care Center. To the extent the allegations in Paragraph 11
 26 purport to describe a document or documents, such documents speak for themselves
 27 and, as such, no response is required. Defendants otherwise deny the allegations to
 28 the extent they vary from the written terms of the document or documents, and deny

1 that Relator's characterization of the document or documents is accurate. To the
 2 extent required, Defendants are otherwise without sufficient knowledge or
 3 information to admit or deny the allegations in Paragraph 11 and on that basis deny
 4 said allegations.

5 12. The allegations in the first sentence of Paragraph 12 describe the
 6 Second Amended Complaint, a legal document, which speaks for itself and to which
 7 no response is required. The allegations in the first sentence in Paragraph 12 also
 8 states legal conclusions to which no response is required. To the extent the
 9 allegations in Paragraph 12 purport to describe a document or documents, such
 10 documents speak for themselves and, as such, no response is required. Defendants
 11 otherwise deny the allegations to the extent they vary from the written terms of the
 12 document or documents, and deny that Relator's characterization of the document
 13 or documents is accurate. Defendants are otherwise without sufficient knowledge
 14 or information to admit or deny the remaining allegations in Paragraph 12 because
 15 there is no entity known as "Ensign," Defendants deny that Ensign Group and Ensign
 16 Services are the same entity and deny that the Defendants and the independently
 17 operated SNFs are one entity, and on that basis deny said allegations.

18 13. The allegations in the first sentence in Paragraph 13 describe the
 19 Second Amended Complaint, a legal document, which speaks for itself and to which
 20 no response is required. To the extent required, Defendants deny the allegations in
 21 the first sentence in Paragraph 13. To the extent that the allegations in Paragraph 13
 22 purport to describe a document or documents, such documents speak for themselves
 23 and, as such, no response is required. Defendants otherwise deny the allegations to
 24 the extent they vary from the written terms of the document or documents, and deny
 25 that Relator's characterization of the document or documents is accurate. Ensign
 26 Services admits that Ms. Wittekind discussed her understanding of certain business
 27 terms in place at the time, including that hourly rates were routinely used as a metric
 28 for Medical Director payments prior to Relator's hiring at Ensign Services.

1 However, Defendants note that Relator was employed in the Contracts Department
 2 and had access to privileged materials. To the extent that Relator's allegations in
 3 Paragraph 13 rely, implicitly or otherwise, on privileged communications with Ms.
 4 Wittekind or any other member of the legal department, or any other privileged
 5 material Relator had access to by virtue of her position at Ensign Services,
 6 Defendants state that Relator is barred from violating privilege and improperly
 7 relying on privileged communications and on that basis neither admit nor deny
 8 allegations relating to those conversations or materials. Defendants deny the
 9 allegations in the last sentence of Paragraph 13. Defendants are otherwise without
 10 sufficient knowledge or information to admit or deny the remaining allegations in
 11 Paragraph 13 because there is no entity known as "Ensign," Defendants deny that
 12 Ensign Group and Ensign Services are the same entity and that the Defendants and
 13 the independently operated SNFs are one entity, and on that basis deny said
 14 allegations.

15 14. The allegations in Paragraph 14 describe the Second Amended
 16 Complaint, a legal document, which speaks for itself and to which no response is
 17 required. The allegations in Paragraph 14 also state legal conclusions to which no
 18 response is required. To the extent required, Defendants specifically deny any
 19 misconduct. Defendants are without sufficient knowledge or information to admit
 20 or deny the remaining allegations in Paragraph 14 because there is no entity known
 21 as "Ensign," Defendants deny that Ensign Group and Ensign Services are the same
 22 entity and deny that the Defendants and the independently operated SNFs are one
 23 entity, and on that basis deny said allegations.

24 15. The allegations in Paragraph 15 describe the Second Amended
 25 Complaint, a legal document, which speaks for itself and to which no response is
 26 required. The allegations in Paragraph 15 also state legal conclusions to which no
 27 response is required. To the extent the allegations in Paragraph 15 relate to claims
 28 that have been dismissed, they are surplusage and should be stricken. Defendants

1 admit that the Ensign Group entered into a CIA, which took effect on October 1,
 2 2013 and lasted for five years. Defendants deny that Ensign Group violated any
 3 aspect of the CIA referenced in Paragraph 15. Defendants are without sufficient
 4 knowledge or information to admit or deny the remaining allegations in Paragraph
 5 15 because there is no entity known as “Ensign,” Defendants deny that Ensign Group
 6 and Ensign Services are the same entity and deny that the Defendants and the
 7 independently operated SNFs are one entity, and on that basis deny said allegations.

8 16. The allegations in Paragraph 16 state legal conclusions to which no
 9 response is required. To the extent required, Defendants are without sufficient
 10 knowledge or information to admit or deny the allegations in Paragraph 16 because
 11 there is no entity known as “Ensign,” Defendants deny that Ensign Group and Ensign
 12 Services are the same entity and deny that the Defendants and the independently
 13 operated SNFs are one entity, and on that basis deny said allegations.

14 **1. Ensign’s Scheme To Pay Improper Compensation And
 15 Remuneration To Physicians To Induce Patient Referrals To
 16 Ensign’s SNFs**

17 17. Defendants deny Heading I.A.1. The allegations in Paragraph 17 state
 18 legal conclusions to which no response is required. To the extent required,
 19 Defendants are without sufficient knowledge or information to admit or deny the
 20 allegations in the first sentence of Paragraph 17 because there is no entity known as
 21 “Ensign,” Defendants deny that Ensign Group and Ensign Services are the same
 22 entity and deny that the Defendants and the independently operated SNFs are one
 23 entity, and on that basis deny said allegations. Defendants otherwise deny the
 24 remaining allegations in Paragraph 17.

25 18. Ensign Services admits that the independently operated SNFs contract
 26 with physicians to serve as Medical Directors, Associate Medical Directors or
 27 consultants.¹ Defendants are without sufficient knowledge or information to admit
 28

¹ The allegations in footnote 1 describe the Second Amended Complaint, a legal document, which speaks for itself and to which no response is required. To the extent required, Defendants deny the allegations in footnote 1.

1 or deny the allegations in the first sentence of Paragraph 18 because there is no entity
 2 known as “Ensign,” Defendants deny that Ensign Group and Ensign Services are the
 3 same entity and deny that the Defendants and the independently operated SNFs are
 4 one entity, and on that basis deny said allegations. The allegations in the last
 5 sentence of Paragraph 18 state legal conclusions to which no response is required.
 6 To the extent required, Defendants deny the allegations in the last sentence of
 7 Paragraph 18 and otherwise deny the remaining allegations in Paragraph 18.

8 19. Defendants deny the existence of a “corporate office.” Defendants are
 9 otherwise without sufficient knowledge or information to admit or deny the
 10 remaining allegations in Paragraph 19 because there is no entity known as “Ensign,”
 11 Defendants deny that Ensign Group and Ensign Services are the same entity and
 12 deny that the Defendants and the independently operated SNFs are one entity, and
 13 on that basis deny said allegations.

14 20. Ensign Services admits that the independently operated SNFs set many
 15 goals associated with clinical and operational performance, one of which is referred
 16 to as a “BHAG.” Ensign Services further admits that it facilitates a travel-related
 17 incentive for certain members of management of the independently operated SNFs
 18 who meet one or more of these goals. Defendants specifically deny any requirement
 19 that the independently operated SNFs set goals for Medicare census or other profit-
 20 related metrics and further deny the existence of any substantive formal review
 21 process for goals established by the independently operated SNFs. Defendants are
 22 otherwise without sufficient knowledge or information to admit or deny the
 23 remaining allegations of Paragraph 20 because there is no entity known as “Ensign,”
 24 Defendants deny that Ensign Group and Ensign Services are the same entity and
 25 deny that the Defendants and the independently operated SNFs are one entity, and
 26 on that basis deny said allegations.

27 21. Ensign Services admits that the independently operated SNFs are
 28 organized into groups known as “clusters” that are largely geographical in nature.

1 Defendants deny the existence of a “corporate office” and further deny that they
2 administer and evaluate the performance of clusters as a whole. Defendants are
3 otherwise without sufficient knowledge or information to admit or deny the
4 remaining allegations of Paragraph 21 because there is no entity known as “Ensign,”
5 Defendants deny that Ensign Group and Ensign Services are the same entity and
6 deny that the Defendants and the independently operated SNFs are one entity, and
7 on that basis deny said allegations.

8 22. Defendants are without sufficient knowledge or information to admit
9 or deny the allegations in Paragraph 22 and on that basis deny said allegations.

10 23. The allegations in the first sentence of Paragraph 23 state legal
11 conclusions to which no response is required. To the extent required, Defendants
12 are without sufficient knowledge or information to admit or deny the allegations in
13 the first sentence of Paragraph 23 and on that basis deny said allegations. Ensign
14 Services admits that the independently operated SNFs negotiated applicable
15 compensation rates with physicians or consultants physicians or consultants to serve
16 as facility Medical Directors. Defendants are otherwise without sufficient
17 knowledge or information to admit or deny the remaining allegations in Paragraph
18 23 and on that basis deny said allegations.

19 24. Defendants are without sufficient knowledge or information to admit
20 or deny the allegations in Paragraph 24 and on that basis deny said allegations.

21 25. The allegations in Paragraph 25 refer to the Second Amended
22 Complaint, a legal document, which speaks for itself and to which no response is
23 required. To the extent that the allegations in Paragraph 25 purport to describe a
24 document or documents, such documents speak for themselves and, as such, no
25 response is required. Defendants deny the allegations to the extent they vary from
26 the written terms of the document or documents, and deny that Relator’s
27 characterization of the document or documents is accurate. Defendants are
28 otherwise without sufficient knowledge or information to admit or deny the

1 remaining allegations in Paragraph 25 and on that basis deny said allegations.

2 26. The allegations in Paragraph 26 state legal conclusions to which no
3 response is required. To the extent required, Defendants are without sufficient
4 knowledge or information to admit or deny the allegations in Paragraph 26 and on
5 that basis deny said allegations.

6 27. The allegations in Paragraph 27 state legal conclusions to which no
7 response is required. Defendants deny the allegations in the last sentence of
8 Paragraph 27. To the extent required, Defendants are otherwise without sufficient
9 knowledge or information to admit or deny the remaining allegations of Paragraph
10 27 because there is no entity known as “Ensign,” Defendants deny that Ensign Group
11 and Ensign Services are the same entity and deny that the Defendants and the
12 independently operated SNFs are one entity, and on that basis deny said allegations.

13 28. The allegations in Paragraph 28 state legal conclusions to which no
14 response is required. To the extent required, Defendants deny the allegations in
15 Paragraph 28.

16 **2. Ensign’s Illegal “Swapping” Scheme with Axiom Mobile Imaging**

17 29. Defendants deny Heading I.A.2. The allegations in the first sentence
18 of Paragraph 29 state legal conclusions to which no response is required. To the
19 extent required, Defendants are without sufficient knowledge or information to
20 admit or deny the allegations in Paragraph 29 and on that basis deny said allegations.

21 30. To the extent the allegations in Paragraph 30 purport to summarize
22 and/or describe the provisions of the Medicare program, Defendants state that the
23 Medicare statute and regulations speak for themselves, and no response is required,
24 and to the extent the allegations in Paragraph 30 vary therefrom or with other
25 applicable statutory or decisional law, Defendants deny those allegations. The
26 allegations in Paragraph 30 also state legal conclusions to which no response is
27 required. To the extent required, Defendants are without sufficient knowledge or
28 information to admit or deny the allegations in Paragraph 30 and on that basis deny

1 said allegations.

2 31. To the extent the allegations in Paragraph 31 purport to summarize
3 and/or describe the provisions of the Medicare program, Defendants state that the
4 Medicare statute and regulations speak for themselves, to which no response is
5 required, and to the extent that the allegations in Paragraph 31 vary therefrom or
6 with other applicable statutory or decisional law, Defendants deny those allegations.
7 To the extent required, Defendants are otherwise without sufficient knowledge or
8 information to admit or deny the allegations in Paragraph 31 and on that basis deny
9 said allegations.

10 32. Defendants are without sufficient knowledge or information to admit
11 or deny the allegations in Paragraph 32 and on that basis deny said allegations.

12 33. The allegations in Paragraph 33 state legal conclusions to which no
13 response is required. To the extent required, Defendants deny the allegations in
14 Paragraph 33.

15 **3. Ensign's Violations of its CIA With the Government**

16 34. Defendants deny the Heading I.A.3. To the extent the allegations in
17 Paragraph 34 relate to claims that have been dismissed, they are surplusage and
18 should be stricken. The allegations in Paragraph 34 state legal conclusions to which
19 no response is required. Paragraph 34 also refers to the Second Amended
20 Complaint, a legal document, which speaks for itself and to which no response is
21 required. Defendants specifically deny any violations of the CIA and further deny
22 the allegations in Paragraph 34.

23 35. To the extent the allegations in Paragraph 35 relate to claims that have
24 been dismissed, they are surplusage and should be stricken. The allegations in
25 Paragraph 35 purport to describe a document or documents, and, as such, no
26 response is required. Defendants otherwise deny the allegations to the extent they
27 vary from the written terms of the document or documents, and deny that Relator's
28 characterization of the document or documents is accurate. Defendants otherwise

1 deny the remaining allegations in Paragraph 35.

2 36. To the extent the allegations in Paragraph 36 relate to claims that have
3 been dismissed, they are surplusage and should be stricken. Defendants admit that
4 Deborah Miller was the Chief Compliance Officer of The Ensign Group at the time
5 she signed the CIA, and also admit that she signed the annual certifications as
6 required in the CIA. Defendants deny that, as Chief Compliance Officer, Ms. Miller
7 reported solely to Christopher Christensen. Defendants admit that Ms. Miller
8 reported on her daily duties to Christopher Christensen who was the President and
9 CEO of The Ensign Group until May 2019. The allegations in Paragraph 36
10 otherwise purport to describe a document or documents, and, as such, no response
11 is required. Defendants otherwise deny the allegations to the extent they vary from
12 the written terms of the document or documents, and deny that Relator's
13 characterization of the document or documents is accurate. Defendants otherwise
14 deny the remaining allegations in Paragraph 36.

15 37. To the extent the allegations in Paragraph 37 relate to claims that have
16 been dismissed, they are surplusage and should be stricken. The allegations in
17 Paragraph 37 state legal conclusions to which no response is required. To the extent
18 required, Defendants deny that there was any entity known as "Ensign" and further
19 deny the allegations in Paragraph 37.

20 38. To the extent the allegations in Paragraph 38 relate to claims that have
21 been dismissed, they are surplusage and should be stricken. The allegations in
22 Paragraph 38 state legal conclusions to which no response is required. To the extent
23 required, Defendants deny that there was any entity known as "Ensign" and further
24 deny the allegations in Paragraph 38.

25 **4. Damage to the United States and California**

26 39. Defendants deny Heading I.A.4. The allegations in Paragraph 39 state
27 legal conclusions to which no response is required. To the extent required,
28 Defendants deny that there was any entity known as "Ensign" and further deny the

1 allegations in Paragraph 39.

2 40. The allegations in Paragraph 40 purport to paraphrase, state, or interpret
3 law or regulations, government agency guidance, or constitutes legal arguments or
4 legal conclusions about the same, and as such, said laws, regulations, or government
5 agency guidance speak for themselves and do not require an answer. To the extent
6 that the allegations in Paragraph 40 vary therefrom or with other applicable statutory
7 or decisional law, Defendants deny those allegations. The allegations in Paragraph
8 40 also state legal conclusions to which no response is required. To the extent
9 required, Defendants deny the allegations in Paragraph 40.

10 41. The allegations in Paragraph 41 state legal conclusions to which no
11 response is required. To the extent required, Defendants deny the allegations in
12 Paragraph 41.

13 **B. The Federal and California False Claims Acts**

14 42. Paragraph 42 contains no allegations with respect to a particular
15 Defendant or claim, and therefore no response is required. To the extent the
16 allegations in Paragraph 42 purport to summarize and/or describe the provisions of
17 the federal False Claims Act, Defendants state that the federal False Claims Act
18 statute and regulations speak for themselves, and no response is required, and to the
19 extent that the allegations in Paragraph 42 vary therefrom or with other applicable
20 statutory or decisional law, Defendants deny those allegations. To the extent
21 required, Defendants deny the allegations in Paragraph 42.

22 43. Paragraph 43 contains no allegations with respect to a particular
23 Defendant or claim, and therefore no response is required. To the extent the
24 allegations in Paragraph 43 relate to claims that have been dismissed, they are
25 surplusage and should be stricken. To the extent the allegations in Paragraph 43
26 purport to summarize and/or describe the provisions of the federal False Claims Act,
27 Defendants state that the federal False Claims Act statute and regulations speak for
28 themselves, and no response is required, and to the extent that the allegations in

1 Paragraph 43 vary therefrom or with other applicable statutory or decisional law,
2 Defendants deny those allegations. To the extent required, Defendants deny the
3 allegations in Paragraph 43.

4 44. Paragraph 44 contains no allegations with respect to a particular
5 Defendant or claim, and therefore no response is required. To the extent the
6 allegations in Paragraph 44 purport to summarize and/or describe the provisions of
7 the federal False Claims Act, Defendants state that the federal False Claims Act
8 statute and regulations speak for themselves, and no response is required, and to the
9 extent that the allegations in Paragraph 44 vary therefrom or with other applicable
10 statutory or decisional law, Defendants deny those allegations. To the extent
11 required, Defendants deny the allegations in Paragraph 44.

12 45. Paragraph 45 contains no allegations with respect to a particular
13 Defendant or claim, and therefore no response is required. To the extent the
14 allegations in Paragraph 45 purport to summarize and/or describe the provisions of
15 the federal False Claims Act, Defendants state that the federal False Claims Act
16 statute and regulations speak for themselves, and no response is required, and to the
17 extent that the allegations in Paragraph 45 vary therefrom or with other applicable
18 statutory or decisional law, Defendants deny those allegations. To the extent
19 required, Defendants deny the allegations in Paragraph 45.

20 46. Paragraph 46 contains no allegations with respect to a particular
21 Defendant or claim, and therefore no response is required. To the extent the
22 allegations in Paragraph 46 purport to summarize and/or describe the provisions of
23 the federal False Claims Act, Defendants state that the federal False Claims Act
24 statute and regulations speak for themselves, and no response is required, and to the
25 extent that the allegations in Paragraph 46 vary therefrom or with other applicable
26 statutory or decisional law, Defendants deny those allegations. To the extent
27 required, Defendants deny the allegations in Paragraph 46.

28 47. The allegations in the first sentence of Paragraph 47 state legal

1 conclusions to which no response is required. To the extent required, Defendants
2 deny the allegations in Paragraph 47. To the extent the remaining allegations in
3 Paragraph 47 purport to summarize and/or describe the provisions of the federal
4 False Claims Act, Defendants state that the federal False Claims Act statute and
5 regulations speak for themselves, and no response is required, and to the extent that
6 the allegations in Paragraph 47 vary therefrom or with other applicable statutory or
7 decisional law, Defendants deny those allegations. To the extent required,
8 Defendants deny the allegations in Paragraph 47.

9 **C. The Instant Action**

10 48. The allegations in Paragraph 48 describe the Second Amended
11 Complaint, a legal document, which speaks for itself and to which no response is
12 required. To the extent required, Defendants deny the allegations in Paragraph 48.

13 49. The allegations in Paragraph 49 state legal conclusions to which no
14 response is required. To the extent required, Defendants deny the allegations in
15 Paragraph 49.

16 **II. PARTIES**

17 **A. Plaintiffs**

18 50. Ensign Services admits that Relator was employed as Contracts
19 Manager at Ensign Services from November 2013 through June 5, 2014. Ensign
20 Services further admits that Relator served on its Compliance Committee at various
21 points in time during the course of her employment. Defendants are without
22 sufficient knowledge or information to admit or deny the allegations in the first
23 sentence Paragraph 50 and on that basis deny said allegations. Defendants otherwise
24 deny the remaining allegations in Paragraph 50.

25 51. Defendants admit the allegations in the first sentence of Paragraph 51.
26 The allegations in Paragraph 51 state legal conclusions to which no response is
27 required. Additionally, Paragraph 51 refers to the Second Amended Complaint, a
28 legal document, which speaks for itself and to which no response is required. To the

1 extent that the allegations in Paragraph 51 purport to describe a document or
2 documents, such documents speak for themselves and, as such, no response is
3 required. Defendants otherwise deny the allegations to the extent they vary from the
4 written terms of the document or documents, and deny that Relator's
5 characterization of the document or documents is accurate. Defendants otherwise
6 deny the remaining allegations in Paragraph 51.

7 **B. Defendants**

8 52. To the extent the allegations in Paragraph 52 relate to claims that have
9 been dismissed, they are surplusage and should be stricken. The Ensign Group
10 admits that The Ensign Group, Inc. is a corporation formed under the laws of the
11 State of Delaware, and that its principal place of business is located at 29222 Rancho
12 Viejo Rd., San Juan Capistrano, CA 92675, in Orange County, California. The
13 Ensign Group admits that the Ensign Group's common stock is traded at
14 Nasdaq.com as ENSG. The Ensign Group admits that the Ensign Group is the
15 holding company for certain independently operated affiliated facilities including
16 over 140 SNFs in California and other parts of the Western and Southwestern United
17 States. Defendants admit that The Ensign Group entered into a 5-year CIA on
18 October 1, 2013. To the extent that the allegations in Paragraph 52 purport to
19 describe a document or documents, such documents speak for themselves and, as
20 such, no response is required. Defendants otherwise deny the allegations to the
21 extent they vary from the written terms of the document or documents, and deny that
22 Relator's characterization of the document or documents is accurate. Ensign
23 Services is without sufficient knowledge or information to admit or deny the
24 allegations in Paragraph 52 and on that basis denies said allegations. The Ensign
25 Group otherwise denies the remaining allegations in Paragraph 52.

26 53. Ensign Services admits that Ensign Services, Inc. (erroneously sued as
27 Ensign Facility Services, Inc.) is a corporation formed under the laws of the State of
28 Delaware, that its principal place of business is located at 29222 Rancho Viejo Rd.,

1 San Juan Capistrano, CA 92675, in Orange County, California. Ensign Services
2 admits that it provides certain back-office, administrative services to The Ensign
3 Group and to certain of The Ensign Group's independently operated subsidiaries
4 through contractual relationships with such subsidiaries. Ensign Services otherwise
5 denies the remaining allegations in Paragraph 53. The Ensign Group is otherwise
6 without sufficient knowledge or information to admit or deny the allegations in
7 Paragraph 53 and on that basis denies said allegations.

8 54. The allegations in the first sentence of Paragraph 54 describe the
9 Second Amended Complaint, a legal document, which speaks for itself and to which
10 no response is required. To the extent that the allegations in Paragraph 54 purport
11 to describe a document or documents, such documents speak for themselves and, as
12 such, no response is required. Defendants otherwise deny the allegations to the
13 extent they vary from the written terms of the document or documents, and deny that
14 Relator's characterization of the document or documents is accurate. Defendants
15 specifically deny that they function as one essential business enterprise and
16 otherwise deny the remaining allegations in Paragraph 54.

17 **C. Defendants Operate As Alter Egos Of Each Other, As An
18 Integrated Enterprise And As A Single Or Joint Employer.**

19 55. Defendants deny Heading II.C. The allegations in Paragraph 55 state
20 legal conclusions to which no response is required. To the extent required,
21 Defendants deny the allegations in Paragraph 55.

22 56. The Ensign Group admits that it is a holding company with no direct
23 operating assets, employees or revenues, with subsidiaries that provide skilled
24 nursing, senior living and rehabilitative services, as well as other ancillary
25 businesses (including mobile diagnostics and medical transportation). The Ensign
26 Group further admits that it is a publicly traded company. To the extent the
27 allegations in Paragraph 56 purports to describe a document or documents, such
28 documents speak for themselves and, as such, no response is required. Defendants

1 otherwise deny the allegations to the extent they vary from the written terms of the
2 document or documents, and deny that Relator's characterization of the document
3 or documents is accurate. Defendants are without sufficient knowledge or
4 information to admit or deny the allegations in the last sentence of Paragraph 56
5 because there is no entity known as "Ensign," Defendants deny that Ensign Group
6 and Ensign Services are the same entity and deny that the Defendants and the
7 independently operated SNFs are one entity, and on that basis deny said allegations.
8 Defendants otherwise deny the remaining allegations in Paragraph 56.

9 57. The Ensign Group admits that, as part of its investment strategy, it
10 acquires, leases and owns healthcare real estate. The Ensign Group further admits
11 that certain independently operated SNFs are located on real estate owned by The
12 Ensign Group. Defendants are without sufficient knowledge or information to admit
13 or deny the allegations in the third sentence of Paragraph 57 because there is no
14 entity known as "Ensign," Defendants deny that Ensign Group and Ensign Services
15 are the same entity and deny that the Defendants and the independently operated
16 SNFs are one entity, and on that basis deny said allegations. Defendants otherwise
17 deny the remaining allegations in Paragraph 57.

18 58. Ensign Services admits that it had its primary place of business in
19 Mission Viejo, California, and now has its primary place of business in San Juan
20 Capistrano. Defendants admit that The Ensign Group's business address is at the
21 same address and location as Ensign Services. Defendants deny that there was any
22 entity known as "Ensign" and otherwise deny the remaining allegations in Paragraph
23 58.

24 59. The Ensign Group admits that it is a holding company with no
25 employees. Defendants are without sufficient knowledge or information to admit or
26 deny the allegations in the first sentence of Paragraph 59 because there is no entity
27 known as "Ensign," Defendants deny that Ensign Group and Ensign Services are the
28 same entity and deny that the Defendants and the independently operated SNFs are

1 one entity, and on that basis deny said allegations. Defendants specifically deny that
2 they, along with the independently operated SNFs operate and function as one
3 company and have no unique identity, and otherwise deny the remaining allegations
4 in Paragraph 59.

5 60. Ensign Services admits that certain Ensign Services employees provide
6 training regarding various disciplines at the independently operated SNFs' request.
7 Ensign Services admits that it has certain online courses on an educational platform
8 that are available to the independently operated SNFs and further admits that it
9 provides compliance training to the employees of the independently operated SNFs.
10 Defendants specifically deny the existence of any "corporate policies" or the
11 existence of an "enterprise." Defendants are otherwise without sufficient knowledge
12 or information to admit or deny the remaining allegations of Paragraph 60 because
13 there is no entity known as "Ensign," Defendants deny that Ensign Group and Ensign
14 Services are the same entity and deny that the Defendants and the independently
15 operated SNFs are one entity, and on that basis deny said allegations.

16 61. Ensign Services admits that it orchestrates an annual meeting that is
17 typically attended by SNF Administrators, Directors of Nursing, and certain market
18 and Ensign Services employees. Defendants are otherwise without sufficient
19 knowledge or information to admit or deny the remaining allegations of Paragraph
20 61 because there is no entity known as "Ensign," Defendants deny that Ensign Group
21 and Ensign Services are the same entity and deny that the Defendants and the
22 independently operated SNFs are one entity, and on that basis deny said allegations.

23 62. Ensign Services admits that Facility Administrators at the
24 independently operated SNFs are responsible to oversee and supervise the SNFs'
25 daily operations. Defendants deny that they operate as part of a single enterprise.
26 Defendants are otherwise without sufficient knowledge or information to admit or
27 deny the remaining allegations in Paragraph 62 because there is no entity known as
28 "Ensign," Defendants deny that Ensign Group and Ensign Services are the same

1 entity and deny that the Defendants and the independently operated SNFs are one
2 entity, and on that basis deny said allegations.

3 63. Ensign Services admits that certain independently operated SNFs are
4 organized into groups known as “clusters,” which are largely geographical in nature.
5 Ensign Services otherwise denies the remaining allegations in Paragraph 63. The
6 Ensign Group is without sufficient knowledge or information to admit or deny the
7 allegations in Paragraph 63 and on that basis denies said allegations.

8 64. The Ensign Group denies the allegations in the last sentence of
9 Paragraph 64. Defendants are otherwise without sufficient knowledge or
10 information to admit or deny the allegations in Paragraph 63 and on that basis deny
11 said allegations.

12 65. Ensign Services admits that it provides certain independent consulting
13 services to the independently operated SNFs through the operation of an
14 Independent Consulting Services Agreement. Ensign Services further admits that it
15 provides certain back office, administrative services to the independently operated
16 SNFs. Defendants deny the allegations in the sixth sentence of Paragraph 65.
17 Defendants are without sufficient knowledge or information to admit or deny the
18 allegations in the second to last sentence of Paragraph 65 because there is no entity
19 known as “Ensign,” Defendants deny that Ensign Group and Ensign Services are the
20 same entity and deny that the Defendants and the independently operated SNFs are
21 one entity, and on that basis deny said allegations. Ensign Services otherwise denies
22 the remaining allegations in Paragraph 65. The Ensign Group is otherwise without
23 sufficient knowledge or information to admit or deny the remaining allegations in
24 Paragraph 65 and on that basis denies said allegations.

25 66. Ensign Services admits that its compliance department audits the
26 independently operated SNFs and provides information and guidance to SNF
27 Administrators regarding compliance. Defendants are without sufficient knowledge
28 or information to admit or deny the allegations in the last sentence of Paragraph 66

1 because there is no entity known as “Ensign,” Defendants deny that Ensign Group
2 and Ensign Services are the same entity and deny that the Defendants and the
3 independently operated SNFs are one entity, and on that basis deny said allegations.
4 Ensign Services denies the remaining allegations in Paragraph 66. The Ensign
5 Group is without sufficient knowledge or information to admit or deny the remaining
6 allegations in Paragraph 66 and on that basis denies said allegations.

7 67. The Ensign Group admits that it entered into a settlement agreement in
8 2013, which required payment of \$48 million following a *qui tam* action pursuant to
9 the False Claims Act filed against the Ensign Group. Ensign Services admits that it
10 provides compliance training to employees of the independently operated SNFs.
11 Ensign Services further admits that certain of its employees provide training
12 regarding various disciplines at the independently operated SNFs’ request. To the
13 extent that the allegations in Paragraph 67 purport to describe a document or
14 documents, such documents speak for themselves and, as such, no response is
15 required. Defendants otherwise deny the allegations to the extent they vary from the
16 written terms of the document or documents, and deny that Relator’s
17 characterization of the document or documents is accurate. Defendants otherwise
18 deny the remaining allegations in Paragraph 67.

19 68. Ensign Services denies the allegations in the first sentence of Paragraph
20 68. The Ensign Group is without sufficient knowledge or information to admit or
21 deny the allegations in the first sentence of Paragraph 68 and on that basis denies
22 said allegations. Defendants are otherwise without sufficient knowledge or
23 information to admit or deny the remaining allegations of Paragraph 68 because
24 there is no entity known as “Ensign,” Defendants deny that Ensign Group and Ensign
25 Services are the same entity and deny that the Defendants and the independently
26 operated SNFs are one entity, and on that basis deny said allegations.

27 69. To the extent the allegations in Paragraph 69 state legal conclusions, no
28 response is required. Defendants specifically deny that they disregarded any

1 corporate formalities, and further deny that each of them and the independently
2 operated SNFs are one functioning business entity or enterprise. Defendants
3 otherwise deny the remaining allegations of Paragraph 69.

4 70. Defendants deny the allegations in the first sentence of Paragraph 70.
5 Defendants further deny Relator's implicit allegation that improving the treatment
6 of skilled nursing facility residents is inconsistent with generating additional profits.
7 Defendants deny the remaining allegations in Paragraph 70.

8 71. Ensign Services admits that the independently operated SNFs set many
9 goals associated with clinical and operational performance, one of which is referred
10 to as a "BHAG." Ensign Services admits that it facilitates a travel-related incentive
11 for certain members of management of the independently operated SNFs who meet
12 one or more of these goals. Ensign Services specifically denies the existence of any
13 substantive formal review process for goals established by the independently
14 operated SNFs. Defendants deny that either Defendant requires the independently
15 operated SNFs to set goals for Medicare census or other profit-related metrics. The
16 Ensign Group denies the allegations in the last three sentences of Paragraph 71. The
17 Ensign Group is otherwise without sufficient knowledge or information to admit or
18 deny the remaining allegations in Paragraph 71 and on that basis denies said
19 allegations. Ensign Services otherwise denies the allegations in Paragraph 71.

20 72. To the extent that the allegations in Paragraph 72 purport to describe a
21 document or documents, such documents speak for themselves and, as such, no
22 response is required. Defendants otherwise deny the allegations to the extent they
23 vary from the written terms of the document or documents, and deny that Relator's
24 characterization of the document or documents is accurate. Defendants specifically
25 deny that each of them and the independently operated SNFs operate as one
26 consolidated and fully integrated business enterprise and otherwise deny the
27 remaining allegations in Paragraph 72.

28 73. Ensign Services admits that Curtis Reese was, at one time, Vice

1 President of Sales and Marketing for Ensign Services. Ensign Services admits that
2 it provides certain services to the independently operated SNFs of The Ensign Group
3 through contractual relationships with such subsidiaries. Ensign Services otherwise
4 denies the remaining allegations in Paragraph 73. The Ensign Group is without
5 sufficient knowledge or information to admit or deny the remaining allegations in
6 Paragraph 73 and on that basis denies said allegations.

7 74. Ensign Services states that it coordinates a “bootcamp” for
8 Administrators in Training and that training is provided by a combination of Ensign
9 Services employees, market resources, and certain SNF-based Administrators and
10 Directors of Nursing. Ensign Services further admits that it has certain online
11 courses on an educational platform that are available to the independently operated
12 SNFs. Defendants specifically deny that each of them and the independently
13 operated SNFs are one company. Defendants are otherwise without sufficient
14 knowledge or information to admit or deny the remaining allegations of Paragraph
15 74 because there is no entity known as “Ensign,” Defendants deny that Ensign Group
16 and Ensign Services are the same entity and deny that the Defendants and the
17 independently operated SNFs are one entity, and on that basis deny said allegations.

18 75. Defendants specifically deny that they function as one and the same
19 entity and otherwise deny the allegations in Paragraph 75.

20 76. The allegations in Paragraph 76 state legal conclusions to which no
21 response is required. To the extent required, Defendants specifically deny that they
22 are alter egos of each other or any independently operated SNFs. Ensign Services
23 specifically denies the allegations in the last sentence of Paragraph 76. The Ensign
24 Group is without sufficient knowledge or information to admit or deny the
25 allegations in the last sentence in Paragraph 62 and on that basis denies said
26 allegations. Defendants otherwise deny the remaining allegations in Paragraph 76.

27 77. The allegations in Paragraph 77 state legal conclusions to which no
28 response is required. To the extent required, Defendants deny the allegations in

1 Paragraph 77.

2 78. The Ensign Group admits that it files financial statements with the
3 Securities and Exchange Commission. The allegations in the second and third
4 sentences of Paragraph 78 state legal conclusions to which no response is required.
5 To the extent required, Defendants specifically deny that each of the SNFs are mere
6 instrumentalities or conduits of the Defendants, and deny that Ensign Group
7 controlled Ensign Services and any subsidiary entities. Defendants otherwise deny
8 the remaining allegations in Paragraph 78.

9 79. Defendants deny the allegations in Paragraph 79.

10 80. Defendants deny the allegations in Paragraph 80.

11 81. To the extent that the allegations in Paragraph 81 purport to describe a
12 document or documents, the contents speak for themselves. Defendants otherwise
13 deny the allegations to the extent they vary from the written terms of the document
14 or documents, and deny that Relator's characterization of the document or
15 documents is accurate. Defendants are without sufficient knowledge or information
16 to admit or deny the remaining allegations in Paragraph 81 because there is no entity
17 known as "Ensign," Defendants deny that Ensign Group and Ensign Services are the
18 same entity and deny that the Defendants and the independently operated SNFs are
19 one entity, and on that basis deny said allegations.

20 82. The allegations in Paragraph 82 state legal conclusions to which no
21 response is required. To the extent required, Defendants deny the allegations in
22 Paragraph 82.

23 83. The allegations in Paragraph 83 state legal conclusions to which no
24 response is required. To the extent required, Defendants deny the allegations in
25 Paragraph 83.

26 **III. JURISDICTION AND VENUE**

27 84. Defendants admit that Relator purports to bring this action under 31
28 U.S.C. §§ 3729, 3730, 3732(b) and 1367. Defendants deny that Relator has stated a

1 claim against Defendants or that discovery will yield evidentiary support for
2 Relator's allegations against Defendants. The allegations in Paragraph 84 also state
3 legal conclusions to which no response is required. To the extent required,
4 Defendants deny the allegations in Paragraph 84.

5 85. The allegations in Paragraph 85 state legal conclusions to which no
6 response is required. To the extent required, Defendants deny the allegations in
7 Paragraph 85.

8 **IV. APPLICABLE FEDERAL AND STATE LAWS AND REGULATIONS**

9 **A. Medicare and Medicaid**

10 86. The allegations in Paragraph 86 purport to paraphrase, state, or interpret
11 law, regulations, or Medicare guidance, or constitutes legal arguments or legal
12 conclusions about the same, and as such, said laws, regulations, or Medicare
13 guidance speak for themselves and do not require an answer. To the extent that the
14 allegations in Paragraph 86 vary therefrom or with other applicable statutory or
15 decisional law, Defendants deny those allegations. To the extent required,
16 Defendants deny the allegations in Paragraph 86.

17 87. The allegations in Paragraph 87 purport to paraphrase, state, or interpret
18 law, regulations, or Medicare guidance, or constitutes legal arguments or legal
19 conclusions about the same, and as such, said laws, regulations, or Medicare
20 guidance speak for themselves and do not require an answer. To the extent that the
21 allegations in Paragraph 87 vary therefrom or with other applicable statutory or
22 decisional law, Defendants deny those allegations. To the extent required,
23 Defendants deny the allegations in Paragraph 87.

24 88. The allegations in Paragraph 88 purport to paraphrase, state, or interpret
25 law, regulations, or Medicare guidance, or constitutes legal arguments or legal
26 conclusions about the same, and as such, said laws, regulations, or Medicare
27 guidance speak for themselves and do not require an answer. To the extent that the
28 allegations in Paragraph 88 vary therefrom or with other applicable statutory or

1 decisional law, Defendants deny those allegations. To the extent required,
2 Defendants deny the allegations in Paragraph 88.

3 89. The allegations in Paragraph 89 purport to paraphrase, state, or interpret
4 law, regulations, or Medicare guidance, or constitutes legal arguments or legal
5 conclusions about the same, and as such, said laws, regulations, or Medicare
6 guidance speak for themselves and do not require an answer. To the extent that the
7 allegations in Paragraph 89 vary therefrom or with other applicable statutory or
8 decisional law, Defendants deny those allegations. To the extent required,
9 Defendants deny the allegations in Paragraph 89.

10 90. The allegations in Paragraph 90 purport to paraphrase, state, or interpret
11 law, regulations, or Medicare guidance, or constitutes legal arguments or legal
12 conclusions about the same, and as such, said laws, regulations, or Medicare
13 guidance speak for themselves and do not require an answer. To the extent that the
14 allegations in Paragraph 90 vary therefrom or with other applicable statutory or
15 decisional law, Defendants deny those allegations. To the extent required,
16 Defendants deny the allegations in Paragraph 90.

17 91. The allegations in Paragraph 91 purport to paraphrase, state, or interpret
18 law, regulations, or Medicare guidance, or constitutes legal arguments or legal
19 conclusions about the same, and as such, said laws, regulations, or Medicare
20 guidance speak for themselves and do not require an answer. To the extent that the
21 allegations in Paragraph 91 vary therefrom or with other applicable statutory or
22 decisional law, Defendants deny those allegations. To the extent required,
23 Defendants deny the allegations in Paragraph 91.

24 92. The allegations in Paragraph 92 purport to paraphrase, state, or interpret
25 law, regulations, or Medicare guidance, or constitutes legal arguments or legal
26 conclusions about the same, and as such, said laws, regulations, or Medicare
27 guidance speak for themselves and do not require an answer. To the extent that the
28 allegations in Paragraph 92 vary therefrom or with other applicable statutory or

1 decisional law, Defendants deny those allegations. To the extent required,
2 Defendants deny the allegations in Paragraph 92.

3 93. The allegations in Paragraph 93 purport to paraphrase, state, or interpret
4 law, regulations, or Medicare guidance, or constitutes legal arguments or legal
5 conclusions about the same, and as such, said laws, regulations, or Medicare
6 guidance speak for themselves and do not require an answer. To the extent that the
7 allegations in Paragraph 93 vary therefrom or with other applicable statutory or
8 decisional law, Defendants deny those allegations. To the extent required,
9 Defendants deny the allegations in Paragraph 93.

10 94. The allegations in Paragraph 94 purport to paraphrase, state, or interpret
11 law, regulations, or Medicare guidance, or constitutes legal arguments or legal
12 conclusions about the same, and as such, said laws, regulations, or Medicare
13 guidance speak for themselves and do not require an answer. To the extent that the
14 allegations in Paragraph 94 vary therefrom or with other applicable statutory or
15 decisional law, Defendants deny those allegations. To the extent required,
16 Defendants deny the allegations in Paragraph 94.

17 95. The allegations in Paragraph 95 purport to paraphrase, state, or interpret
18 law, regulations, or Medicare guidance, or constitutes legal arguments or legal
19 conclusions about the same, and as such, said laws, regulations, or Medicare
20 guidance speak for themselves and do not require an answer. To the extent that the
21 allegations in Paragraph 95 vary therefrom or with other applicable statutory or
22 decisional law, Defendants deny those allegations. To the extent required,
23 Defendants deny the allegations in Paragraph 95.

24 96. The allegations in Paragraph 96 purport to paraphrase, state, or interpret
25 law, regulations, or Medicare guidance, or constitutes legal arguments or legal
26 conclusions about the same, and as such, said laws, regulations, or Medicare
27 guidance speak for themselves and do not require an answer. To the extent that the
28 allegations in Paragraph 96 vary therefrom or with other applicable statutory or

1 decisional law, Defendants deny those allegations. To the extent required,
2 Defendants deny the allegations in Paragraph 96.

3 97. The allegations in the first sentence of Paragraph 97 state legal
4 conclusions to which no response is required. To the extent required, Defendants
5 deny the allegations in the first sentence of Paragraph 97. The remaining allegations
6 in Paragraph 97 purport to paraphrase, state, or interpret law, regulations, or
7 Medicaid guidance, or constitutes legal arguments or legal conclusions about the
8 same, and as such, said laws, regulations, or Medicaid guidance speak for themselves
9 and do not require an answer. To the extent that the allegations in Paragraph 97 vary
10 therefrom or with other applicable statutory or decisional law, Defendants deny
11 those allegations. To the extent required, Defendants deny the allegations in
12 Paragraph 97.

13 98. The allegations in Paragraph 98 purport to paraphrase, state, or interpret
14 law, regulations, or Medicaid guidance, or constitutes legal arguments or legal
15 conclusions about the same, and as such, said laws, regulations, or Medicaid
16 guidance speak for themselves and do not require an answer. To the extent that the
17 allegations in Paragraph 98 vary therefrom or with other applicable statutory or
18 decisional law, Defendants deny those allegations. To the extent required,
19 Defendants deny the allegations in Paragraph 98.

20 99. The allegations in Paragraph 99 purport to paraphrase, state, or interpret
21 law, regulations, or Medicaid guidance, or constitutes legal arguments or legal
22 conclusions about the same, and as such, said laws, regulations, or Medicaid
23 guidance speak for themselves and do not require an answer. To the extent that the
24 allegations in Paragraph 99 vary therefrom or with other applicable statutory or
25 decisional law, Defendants deny those allegations. To the extent required,
26 Defendants deny the allegations in Paragraph 99.

27 100. Defendants deny the allegations in Paragraph 100.

28 101. Defendants deny the allegations in Paragraph 101.

1 102. The allegations in Paragraph 102 state legal conclusions to which no
2 response is required. To the extent required, Defendants are without sufficient
3 knowledge or information to admit or deny the remaining allegations in Paragraph
4 102 and on that basis deny said allegations.

5 **B. Other Federal and State-Funded Health Care Programs**

6 103. The allegations in Paragraph 103 purport to paraphrase, state, or
7 interpret law or regulations, government agency guidance, or constitutes legal
8 arguments or legal conclusions about the same, and as such, said laws, regulations,
9 or government agency guidance speak for themselves and do not require an answer.
10 To the extent that the allegations in Paragraph 103 vary therefrom or with other
11 applicable statutory or decisional law, Defendants deny those allegations. To the
12 extent required, Defendants deny the allegations in Paragraph 103.

13 104. The allegations in Paragraph 104 purport to paraphrase, state, or
14 interpret law or regulations, government agency guidance, or constitutes legal
15 arguments or legal conclusions about the same, and as such, said laws, regulations,
16 or government agency guidance speak for themselves and do not require an answer.
17 To the extent that the allegations in Paragraph 104 vary therefrom or with other
18 applicable statutory or decisional law, Defendants deny those allegations. To the
19 extent required, Defendants deny the allegations in Paragraph 104.

20 105. The allegations in Paragraph 105 purport to paraphrase, state, or
21 interpret law or regulations, government agency guidance, or constitutes legal
22 arguments or legal conclusions about the same, and as such, said laws, regulations,
23 or government agency guidance speak for themselves and do not require an answer.
24 To the extent that the allegations in Paragraph 105 vary therefrom or with other
25 applicable statutory or decisional law, Defendants deny those allegations. To the
26 extent required, Defendants deny the allegations in Paragraph 105.

27 106. The allegations in Paragraph 106 purport to paraphrase, state, or
28 interpret law or regulations, government agency guidance, or constitutes legal

1 arguments or legal conclusions about the same, and as such, said laws, regulations,
2 or government agency guidance speak for themselves and do not require an answer.
3 To the extent that the allegations in Paragraph 106 vary therefrom or with other
4 applicable statutory or decisional law, Defendants deny those allegations. To the
5 extent required, Defendants deny the allegations in Paragraph 106.

6 107. The allegations in Paragraph 107 purport to paraphrase, state, or
7 interpret law or regulations, government agency guidance, or constitutes legal
8 arguments or legal conclusions about the same, and as such, said laws, regulations,
9 or government agency guidance speak for themselves and do not require an answer.
10 To the extent that the allegations in Paragraph 107 vary therefrom or with other
11 applicable statutory or decisional law, Defendants deny those allegations. To the
12 extent required, Defendants deny the allegations in Paragraph 107.

13 108. The allegations in Paragraph 108 describe the Second Amended
14 Complaint, a legal document, which speaks for itself and to which no response is
15 required. To the extent required, Defendants deny the allegations in Paragraph 108.

16 109. The allegations in Paragraph 109 purport to paraphrase, state, or
17 interpret law or regulations, government agency guidance, or constitutes legal
18 arguments or legal conclusions about the same, and as such, said laws, regulations,
19 or government agency guidance speak for themselves and do not require an answer.
20 To the extent that the allegations in Paragraph 109 vary therefrom or with other
21 applicable statutory or decisional law, Defendants deny those allegations. To the
22 extent required, Defendants deny the allegations in Paragraph 109.

23 110. The allegations in Paragraph 110 purport to paraphrase, state, or
24 interpret law or regulations, government agency guidance, or constitutes legal
25 arguments or legal conclusions about the same, and as such, said laws, regulations,
26 or government agency guidance speak for themselves and do not require an answer.
27 To the extent that the allegations in Paragraph 110 vary therefrom or with other
28 applicable statutory or decisional law, Defendants deny those allegations. The

1 allegations in the last sentence of Paragraph 110 also state legal conclusions to which
2 no response is required. To the extent required, Defendants deny the allegations in
3 Paragraph 110.

4 **C. Federal and California False Claims Acts**

5 111. To the extent the allegations in Paragraph 111 relate to claims that have
6 been dismissed, they are surplusage and should be stricken. The allegations in
7 Paragraph 111 purport to paraphrase, state, or interpret law, regulations, government
8 agency guidance, or constitutes legal arguments or legal conclusions about the same,
9 and as such, said laws, regulations, or government agency guidance speak for
10 themselves and do not require an answer. To the extent that the allegations in
11 Paragraph 111 vary therefrom or with other applicable statutory or decisional law,
12 Defendants deny those allegations. To the extent required, Defendants deny the
13 allegations in Paragraph 111.

14 112. The allegations in Paragraph 112 purport to paraphrase, state, or
15 interpret law, regulations, government agency guidance, or constitutes legal
16 arguments or legal conclusions about the same, and as such, said laws, regulations,
17 or government agency guidance speak for themselves and do not require an answer.
18 To the extent that the allegations in Paragraph 112 vary therefrom or with other
19 applicable statutory or decisional law, Defendants deny those allegations. To the
20 extent required, Defendants deny the allegations in Paragraph 112.

21 113. To the extent the allegations in Paragraph 113 relate to claims that have
22 been dismissed, they are surplusage and should be stricken. The allegations in
23 Paragraph 113 purport to paraphrase, state, or interpret law, regulations, government
24 agency guidance, or constitutes legal arguments or legal conclusions about the same,
25 and as such, said laws, regulations, or government agency guidance speak for
26 themselves and do not require an answer. To the extent that the allegations in
27 Paragraph 113 vary therefrom or with other applicable statutory or decisional law,
28 Defendants deny those allegations. To the extent required, Defendants deny the

1 allegations in Paragraph 113.

2 114. The allegations in Paragraph 114 purport to paraphrase, state, or
3 interpret law, regulations, government agency guidance, or constitutes legal
4 arguments or legal conclusions about the same, and as such, said laws, regulations,
5 or government agency guidance speak for themselves and do not require an answer.
6 To the extent that the allegations in Paragraph 114 vary therefrom or with other
7 applicable statutory or decisional law, Defendants deny those allegations. To the
8 extent required, Defendants deny the allegations in Paragraph 114.

9 115. The allegations in the first sentence of Paragraph 115 describe the
10 Second Amended Complaint, a legal document, which speaks for itself and to which
11 no response is required. The allegations in Paragraph 115 also state legal
12 conclusions to which no response is required. To the extent required, Defendants
13 deny the allegations in Paragraph 115.

14 **D. The Federal and California Anti-Kickback Statutes**

15 116. The allegations in Paragraph 116 purport to paraphrase, state, or
16 interpret law, regulations, government agency guidance, or constitutes legal
17 arguments or legal conclusions about the same, and as such, said laws, regulations,
18 or government agency guidance speak for themselves and do not require an answer.
19 To the extent that the allegations in Paragraph 116 vary therefrom or with other
20 applicable statutory or decisional law, Defendants deny those allegations. To the
21 extent required, Defendants deny the allegations in Paragraph 116.

22 117. The allegations in Paragraph 117 purport to paraphrase, state, or
23 interpret law, regulations, government agency guidance, or constitutes legal
24 arguments or legal conclusions about the same, and as such, said laws, regulations,
25 or government agency guidance speak for themselves and do not require an answer.
26 To the extent that the allegations in Paragraph 117 vary therefrom or with other
27 applicable statutory or decisional law, Defendants deny those allegations. To the
28 extent required, Defendants deny the allegations in Paragraph 117.

1 118. The allegations in Paragraph 118 purport to paraphrase, state, or
2 interpret law, regulations, or government agency guidance, or constitutes legal
3 arguments or legal conclusions about the same, and as such, said laws, regulations,
4 or government agency guidance speak for themselves and do not require an answer.
5 To the extent that the allegations in Paragraph 118 vary therefrom or with other
6 applicable statutory or decisional law, Defendants deny those allegations. To the
7 extent required, Defendants deny the allegations in Paragraph 118.

8 119. The allegations in Paragraph 119 purport to paraphrase, state, or
9 interpret law, regulations, or government agency guidance, or constitutes legal
10 arguments or legal conclusions about the same, and as such, said laws, regulations,
11 or government agency guidance speak for themselves and do not require an answer.
12 To the extent that the allegations in Paragraph 119 vary therefrom or with other
13 applicable statutory or decisional law, Defendants deny those allegations. To the
14 extent that the allegations in Paragraph 119 purport to describe a document or
15 documents, the contents speak for themselves. Defendants otherwise deny the
16 allegations to the extent they vary from the written terms of the document or
17 documents, and deny that Relator's characterization of the document or documents
18 is accurate. To the extent required, Defendants deny the allegations in Paragraph
19 119.

20 120. The allegations in Paragraph 120 purport to paraphrase, state, or
21 interpret law, regulations, or government agency guidance, or constitutes legal
22 arguments or legal conclusions about the same, and as such, said laws, regulations,
23 or government agency guidance speak for themselves and do not require an answer.
24 To the extent that the allegations in Paragraph 120 vary therefrom or with other
25 applicable statutory or decisional law, Defendants deny those allegations. To the
26 extent required, Defendants deny the allegations in Paragraph 120.

27 121. The allegations in Paragraph 121 purport to paraphrase, state, or
28 interpret law, regulations, or government agency guidance, or constitutes legal

1 arguments or legal conclusions about the same, and as such, said laws, regulations,
2 or government agency guidance speak for themselves and do not require an answer.
3 To the extent that the allegations in Paragraph 121 vary therefrom or with other
4 applicable statutory or decisional law, Defendants deny those allegations. To the
5 extent required, Defendants deny the allegations in Paragraph 121.

6 122. The allegations in Paragraph 122 purport to paraphrase, state, or
7 interpret law, regulations, or government agency guidance, or constitutes legal
8 arguments or legal conclusions about the same, and as such, said laws, regulations,
9 or government agency guidance speak for themselves and do not require an answer.
10 To the extent that the allegations in Paragraph 122 vary therefrom or with other
11 applicable statutory or decisional law, Defendants deny those allegations. To the
12 extent required, Defendants deny the allegations in Paragraph 122.

13 123. The allegations in Paragraph 123 purport to paraphrase, state, or
14 interpret law, regulations, or government agency guidance, or constitutes legal
15 arguments or legal conclusions about the same, and as such, said laws, regulations,
16 or government agency guidance speak for themselves and do not require an answer.
17 To the extent that the allegations in Paragraph 123 vary therefrom or with other
18 applicable statutory or decisional law, Defendants deny those allegations. To the
19 extent required, Defendants deny the allegations in Paragraph 123.

20 124. The allegations contained in Paragraph 124 purport to paraphrase, state,
21 or interpret law or regulations, or constitute legal arguments or legal conclusions
22 about the same, and as such, said laws or regulations speak for themselves and do
23 not require an answer. To the extent that the allegations in Paragraph 124 vary
24 therefrom or with other applicable statutory or decisional law, Defendants deny
25 those allegations. To the extent required, Defendants deny the allegations in
26 Paragraph 124.

27 **E. The Stark Statute**

28 125. The allegations in Paragraph 125 purport to paraphrase, state, or

1 interpret law, regulations, or government agency guidance, or constitutes legal
2 arguments or legal conclusions about the same, and as such, said laws, regulations,
3 or government agency guidance speak for themselves and do not require an answer.
4 To the extent that the allegations in Paragraph 125 vary therefrom or with other
5 applicable statutory or decisional law, Defendants deny those allegations. To the
6 extent required, Defendants deny the allegations in Paragraph 125.

7 126. The allegations in Paragraph 126 purport to paraphrase, state, or
8 interpret law, regulations, or government agency guidance, or constitutes legal
9 arguments or legal conclusions about the same, and as such, said laws, regulations,
10 or government agency guidance speak for themselves and do not require an answer.
11 To the extent that the allegations in Paragraph 126 vary therefrom or with other
12 applicable statutory or decisional law, Defendants deny those allegations. To the
13 extent required, Defendants deny the allegations in Paragraph 126.

14 127. The allegations in Paragraph 127 purport to paraphrase, state, or
15 interpret law, regulations, or government agency guidance, or constitutes legal
16 arguments or legal conclusions about the same, and as such, said laws, regulations,
17 or government agency guidance speak for themselves and do not require an answer.
18 To the extent that the allegations in Paragraph 127 vary therefrom or with other
19 applicable statutory or decisional law, Defendants deny those allegations. To the
20 extent required, Defendants deny the allegations in Paragraph 127.

21 128. The allegations in Paragraph 128 purport to paraphrase, state, or
22 interpret law, regulations, or government agency guidance, or constitutes legal
23 arguments or legal conclusions about the same, and as such, said laws, regulations,
24 or government agency guidance speak for themselves and do not require an answer.
25 To the extent that the allegations in Paragraph 128 vary therefrom or with other
26 applicable statutory or decisional law, Defendants deny those allegations. To the
27 extent required, Defendants deny the allegations in Paragraph 128.

28 129. The allegations in Paragraph 129 purport to paraphrase, state, or

1 interpret law, regulations, or government agency guidance, or constitutes legal
2 arguments or legal conclusions about the same, and as such, said laws, regulations,
3 or government agency guidance speak for themselves and do not require an answer.
4 To the extent required, Defendants deny the allegations in Paragraph 129. To the
5 extent that the allegations in Paragraph 129 vary therefrom or with other applicable
6 statutory or decisional law, Defendants deny those allegations.

7 130. The allegations in Paragraph 130 purport to paraphrase, state, or
8 interpret law, regulations, or government agency guidance, or constitutes legal
9 arguments or legal conclusions about the same, and as such, said laws, regulations,
10 or guidance speak for themselves and do not require an answer. To the extent that
11 the allegations in Paragraph 130 vary therefrom or with other applicable statutory or
12 decisional law, Defendants deny those allegations. To the extent required,
13 Defendants deny the allegations in Paragraph 130.

14 131. The allegations in Paragraph 131 purport to paraphrase, state, or
15 interpret law, regulations, or government agency guidance, or constitutes legal
16 arguments or legal conclusions about the same, and as such, said laws, regulations,
17 or government agency guidance speak for themselves and do not require an answer.
18 To the extent that the allegations in Paragraph 131 vary therefrom or with other
19 applicable statutory or decisional law, Defendants deny those allegations. To the
20 extent required, Defendants deny the allegations in Paragraph 131.

21 132. The allegations in Paragraph 132 purport to paraphrase, state, or
22 interpret law, regulations, or government agency guidance, or constitutes legal
23 arguments or legal conclusions about the same, and as such, said laws, regulations,
24 or government agency guidance speak for themselves and do not require an answer.
25 To the extent that the allegations in Paragraph 132 vary therefrom or with other
26 applicable statutory or decisional law, Defendants deny those allegations. To the
27 extent required, Defendants deny the allegations in Paragraph 132.

28 133. The allegations in Paragraph 133 purport to paraphrase, state, or

1 interpret law, regulations, or government agency guidance, or constitutes legal
2 arguments or legal conclusions about the same, and as such, said laws, regulations,
3 or government agency guidance speak for themselves and do not require an answer.
4 To the extent that the allegations in Paragraph 133 vary therefrom or with other
5 applicable statutory or decisional law, Defendants deny those allegations. The
6 allegations in Paragraph 133 also state legal conclusions to which no response is
7 required. To the extent required, Defendants deny the allegations in Paragraph 133.

8 134. The allegations in Paragraph 134 purport to paraphrase, state, or
9 interpret law, regulations, or government agency guidance, or constitutes legal
10 arguments or legal conclusions about the same, and as such, said laws, regulations,
11 or government agency guidance speak for themselves and do not require an answer.
12 To the extent that the allegations in Paragraph 134 vary therefrom or with other
13 applicable statutory or decisional law, Defendants deny those allegations. To the
14 extent required, Defendants deny the allegations in Paragraph 134.

15 **V. FACTS AND ALLEGATIONS**

16 **A. Summary of Ensign's Unlawful Conduct and Relator's Role**

17 135. Defendants deny Heading V.A. The allegations in Paragraph 135
18 describe the Second Amended Complaint, a legal document, which speaks for itself
19 and to which no response is required. To the extent required, Defendants deny the
20 allegations in Paragraph 135.

21 136. Ensign Services admits that Relator served on its Compliance
22 Committee at various points in time during the course of her employment. To the
23 extent that the allegations in Paragraph 136 purport to describe a document or
24 documents, such documents speak for themselves and, as such, no response is
25 required. Defendants otherwise deny the allegations to the extent they vary from the
26 written terms of the document or documents, and deny that Relator's
27 characterization of the document or documents is accurate. Defendants are
28 otherwise without sufficient knowledge or information to admit or deny the

1 remaining allegations in of Paragraph 136 because there is no entity known as
2 “Ensign,” Defendants deny that Ensign Group and Ensign Services are the same
3 entity and deny that the Defendants and the independently operated SNFs are one
4 entity, and on that basis deny said allegations.

5 137. Defendants deny that there was any entity known as “Ensign” and
6 otherwise deny the allegations in Paragraph 137.

7 **B. Ensign’s Scheme to Pay Illegal Compensation to Physicians to
8 Induce Referrals to Ensign SNFs**

9 138. Defendants deny Heading V.B. Defendants deny that there was any
10 entity known as “Ensign.” Defendants are without sufficient knowledge or
11 information to admit or deny the allegations in Paragraph 138 and on that basis, deny
12 said allegations.

13 139. Ensign Services admits that Relator was employed by it beginning in
14 November 2013 as Contracts Manager, and that she had partial responsibility for
15 reviewing certain contracts entered into by the independently operated SNFs. The
16 Ensign Group admits that in November 2013, over approximately 140 SNFs in
17 California and several other states were affiliated with it. Ensign Services otherwise
18 denies the remaining allegations in Paragraph 139. The Ensign Group is without
19 sufficient knowledge or information to admit or deny the remaining allegations in
20 Paragraph 139 and on that basis denies said allegations.

21 140. Ensign Services admits that its Human Resources manual applied to all
22 Ensign Services employees, and further admits that Ensign Services employees were
23 trained on compliance policies. Defendants are otherwise without sufficient
24 knowledge or information to admit or deny the remaining allegations in Paragraph
25 140 and on that basis deny said allegations.

26 141. Ensign Services admits that the independently operated SNFs selected
27 physicians or consultants to serve as facility Medical Directors, and negotiated
28 applicable compensation rates with those physicians or consultants. Defendants

1 deny the allegations in the first sentence of Paragraph 141. Defendants are otherwise
2 without sufficient knowledge or information to admit or deny the remaining
3 allegations in Paragraph 141 and on that basis deny said allegations.

4 142. Defendants are without sufficient knowledge or information to admit
5 or deny the allegations in Paragraph 142, and on that basis deny said allegations.

6 143. Defendants are without sufficient knowledge or information to admit
7 or deny the allegations in Paragraph 143 and on that basis, deny said allegations.

8 144. Defendants are without sufficient knowledge or information to admit
9 or deny the allegations in Paragraph 144 and on that basis deny said allegations.

10 145. Ensign Services admits that its employees were not authorized to sign
11 contracts to which Ensign Services was not a party. Defendants are otherwise
12 without sufficient knowledge or information to admit or deny the remaining
13 allegations in Paragraph 145 because there is no entity known as “Ensign,”
14 Defendants deny that Ensign Group and Ensign Services are the same entity and that
15 the Defendants and the independently operated SNFs are one entity, and on that basis
16 deny said allegations.

17 146. Ensign Services admits that the independently operated SNFs
18 negotiated applicable compensation rates with the physicians and consultants.
19 Ensign Services denies the allegations in the last sentence of Paragraph 146.
20 Defendants deny that there was any entity known as “Ensign.” Defendants are
21 otherwise without sufficient knowledge or information to admit or deny the
22 remaining allegations in Paragraph 146 because there is no entity known as
23 “Ensign,” Defendants deny that Ensign Group and Ensign Services are the same
24 entity and that the Defendants and the independently operated SNFs are one entity,
25 and on that basis deny said allegations.

26 147. Defendants are without sufficient knowledge or information to admit
27 or deny the remaining allegations in Paragraph 147 and on that basis deny said
28 allegations.

1 148. The Ensign Group admits that in or about 2013, it had 140
2 independently operated SNFs affiliated with it. The Ensign Group further admits
3 that additional California facilities became affiliated with it in late 2014 to early
4 2015. Defendants are without sufficient knowledge or information to admit or deny
5 the allegations of Paragraph 148 because there is no entity known as “Ensign,”
6 Defendants deny that Ensign Group and Ensign Services are the same entity and that
7 the Defendants and the independently operated SNFs are one entity, and on that basis
8 deny said allegations. Ensign Services is without knowledge or information to admit
9 or deny the remaining allegations in Paragraph 148 and on that basis deny said
10 allegations. The Ensign Group otherwise denies the remaining allegations in
11 Paragraph 148.

12 149. Ensign Services admits that the administration of a SNF generally
13 consists of a Facility Administrator, Director of Nursing, and other Department
14 heads. Defendants are otherwise without sufficient knowledge or information to
15 admit or deny the remaining allegations in Paragraph 149 there is no entity known
16 as “Ensign,” Defendants deny that Ensign Group and Ensign Services are the same
17 entity and that the Defendants and the independently operated SNFs are one entity,
18 and on that basis deny said allegations.

19 150. Defendants are without sufficient knowledge or information to admit
20 or deny the allegations in Paragraph 150 there is no entity known as “Ensign,”
21 Defendants deny that Ensign Group and Ensign Services are the same entity and that
22 the Defendants and the independently operated SNFs are one entity, and on that basis
23 deny said allegations. Defendants otherwise deny the allegations in Paragraph 150.

24 151. Defendants deny the allegations in Paragraph 151.

25 152. Ensign Services admits that Contracts Logix was the contracts
26 management system that it used for a period of time to create, edit, and store certain
27 contracts. Defendants are otherwise without sufficient knowledge or information to
28 admit or deny the remaining allegations in Paragraph 152 and on that basis deny said

1 allegations.

2 153. Defendants are without sufficient knowledge or information to admit
3 or deny the allegations in Paragraph 153 and on that basis deny said allegations.

4 154. The allegations in the last sentence of Paragraph 154 state legal
5 conclusions to which no response is required. To the extent required, Ensign
6 Services denies said allegations, and further denies the remaining allegations in
7 Paragraph 154. To the extent required, The Ensign Group is without sufficient
8 knowledge or information to admit or deny the allegations in Paragraph 154 and on
9 that basis denies said allegations.

10 155. Defendants are without sufficient knowledge or information to admit
11 or deny the allegations in the first and second sentences of Paragraph 155 and on
12 that basis deny said allegations. The allegations in the last sentence of Paragraph 155
13 state legal conclusions to which no response is required. To the extent required,
14 Defendants are without sufficient knowledge or information to admit or deny the
15 allegations in the last sentence of Paragraph 155 because there is no entity known as
16 “Ensign,” Defendants deny that Ensign Group and Ensign Services are the same
17 entity and deny that the Defendants and the independently operated SNFs are one
18 entity, and on that basis deny said allegations.

19 156. Defendants are without sufficient knowledge or information to admit
20 or deny the allegations in the first sentence of Paragraph 156 because there is no
21 entity known as “Ensign,” Defendants deny that Ensign Group and Ensign Services
22 are the same entity and that the Defendants and the independently operated SNFs
23 are one entity, and on that basis deny said allegations. Defendants are otherwise
24 without sufficient knowledge or information to admit or deny the remaining
25 allegations in Paragraph 156 and on that basis deny said allegations.

26 157. The allegations in Paragraph 157 purport to paraphrase, state, or
27 interpret law or regulations, or constitute legal arguments or legal conclusions about
28 the same, and as such, said laws or regulations speak for themselves and do not

1 require an answer. Defendants are without sufficient knowledge or information to
2 admit or deny the allegations in the last two sentences of Paragraph 157 and on that
3 basis deny said allegations. Defendants deny that there was any entity known as
4 "Ensign" and otherwise deny the remaining allegations in Paragraph 157.

5 **1. Ensign Paid More than Fair Market Value for Physician "Medical
6 Director" and "Consulting" Services.**

7 158. Defendants deny Heading V.5.1. Ensign Services admits that the SNFs
8 reasonably compensated physicians to act as facility Medical Directors or
9 consultants. Defendants are otherwise without sufficient knowledge or information
10 to admit or deny the remaining allegations in Paragraph 158 because there is no
11 entity known as "Ensign," Defendants deny that Ensign Group and Ensign Services
12 are the same entity and deny that the Defendants and the independently operated
13 SNFs are one entity, and on that basis deny said allegations.

14 159. Defendants deny the allegations in Paragraph 159.

15 160. Defendants are without sufficient knowledge or information to admit
16 or deny the allegations in the second sentence of Paragraph 160 and on that basis
17 deny said allegations. Defendants are without sufficient knowledge or information
18 to admit or deny the remaining allegations in Paragraph 160 because there is no
19 entity known as "Ensign," Defendants deny that Ensign Group and Ensign Services
20 are the same entity and deny that the Defendants and the independently operated
21 SNFs are one entity, and on that basis deny said allegations.

22 161. The allegations in Paragraph 161 purport to describe a document or
23 documents, such documents speak for themselves and, as such, no response is
24 required. Defendants otherwise deny the allegations to the extent they vary from the
25 written terms of the document or documents, and deny that Relator's
26 characterization of the document or documents is accurate. The allegations in the
27 last sentence of Paragraph 161 also state legal conclusions to which no response is
28 required. To the extent required, Defendants deny the allegations in the last sentence

1 of Paragraph 161. Defendants are otherwise without sufficient knowledge or
2 information to admit or deny the remaining allegations in Paragraph 161 because
3 there is no entity known as “Ensign,” Defendants deny that Ensign Group and Ensign
4 Services are the same entity and deny that the Defendants and the independently
5 operated SNFs are one entity, and on that basis deny said allegations.

6 162. The allegations in the last sentence of Paragraph 162 state legal
7 conclusions to which no response is required. Defendants are otherwise without
8 sufficient knowledge or information to admit or deny the remaining allegations in
9 Paragraph 162 and on that basis deny said allegations.

10 163. The allegations in Paragraph 163 purport to describe a document or
11 documents, such documents speak for themselves and, as such, no response is
12 required. Defendants otherwise deny the allegations to the extent they vary from the
13 written terms of the document or documents, and deny that Relator’s
14 characterization of the document or documents is accurate. To the extent required,
15 Defendants are otherwise without sufficient knowledge or information to admit or
16 deny the allegations in Paragraph 163 because there is no entity known as “Ensign,”
17 Defendants deny that Ensign Group and Ensign Services are the same entity and
18 deny that the Defendants and the independently operated SNFs are one entity, and
19 on that basis deny said allegations.

20 164. The allegations in Paragraph 164 purport to describe a document or
21 documents, such documents speak for themselves and, as such, no response is
22 required. Defendants otherwise deny the allegations to the extent they vary from the
23 written terms of the document or documents, and deny that Relator’s
24 characterization of the document or documents is accurate. To the extent required,
25 Defendants are otherwise without sufficient knowledge or information to admit or
26 deny the allegations in Paragraph 164 because there is no entity known as “Ensign,”
27 Defendants deny that Ensign Group and Ensign Services are the same entity and
28 deny that the Defendants and the independently operated SNFs are one entity, and

1 on that basis deny said allegations.

2 165. The allegations in Paragraph 165 purport to describe a document or
3 documents, such documents speak for themselves and, as such, no response is
4 required. Defendants otherwise deny the allegations to the extent they vary from the
5 written terms of the document or documents, and deny that Relator's
6 characterization of the document or documents is accurate. To the extent required,
7 Defendants are otherwise without sufficient knowledge or information to admit or
8 deny the allegations in Paragraph 165 because there is no entity known as "Ensign,"
9 Defendants deny that Ensign Group and Ensign Services are the same entity and
10 deny that the Defendants and the independently operated SNFs are one entity, and
11 on that basis deny said allegations.

12 166. The allegations in Paragraph 166 purport to describe a document or
13 documents, such documents speak for themselves and, as such, no response is
14 required. Defendants otherwise deny the allegations to the extent they vary from the
15 written terms of the document or documents, and deny that Relator's
16 characterization of the document or documents is accurate. To the extent required,
17 Defendants are otherwise without sufficient knowledge or information to admit or
18 deny the allegations in Paragraph 166 because there is no entity known as "Ensign,"
19 Defendants deny that Ensign Group and Ensign Services are the same entity and
20 deny that the Defendants and the independently operated SNFs are one entity, and
21 on that basis deny said allegations.

22 167. Defendants are without sufficient knowledge or information to admit
23 or deny the allegations in Paragraph 167 because there is no entity known as
24 "Ensign," Defendants deny that Ensign Group and Ensign Services are the same
25 entity and deny that the Defendants and the independently operated SNFs are one
26 entity, and on that basis deny said allegations.

27 168. Defendants are without sufficient knowledge or information to admit
28 or deny the allegations in Paragraph 168 because there is no entity known as

1 “Ensign,” Defendants deny that Ensign Group and Ensign Services are the same
2 entity and deny that the Defendants and the independently operated SNFs are one
3 entity, and on that basis deny said allegations.

4 169. Defendants are without sufficient knowledge or information to admit
5 or deny the allegations in Paragraph 169 because there is no entity known as
6 “Ensign,” Defendants deny that Ensign Group and Ensign Services are the same
7 entity and deny that the Defendants and the independently operated SNFs are one
8 entity, and on that basis deny said allegations.

9 **2. Ensign Hired “Medical Directors” and other “Consultants” to
10 Perform Services without Establishing What Those Services Were
or Whether They Were Necessary.**

11 170. Defendants deny Heading V.B.2. The allegations in Paragraph 170
12 purport to paraphrase, state, or interpret law, regulations, or government agency
13 guidance, or constitutes legal arguments or legal conclusions about the same, and as
14 such, said laws, regulations, or government agency guidance speak for themselves
15 and do not require an answer. To the extent that the allegations in Paragraph 170
16 vary therefrom or with other applicable statutory or decisional law, Defendants deny
17 those allegations. To the extent required, Defendants deny the allegations in
18 Paragraph 170.

19 171. Defendants are without sufficient knowledge or information to admit
20 or deny the allegations in the last sentence of Paragraph 171 because there is no
21 entity known as “Ensign,” Defendants deny that Ensign Group and Ensign Services
22 are the same entity and deny that the Defendants and the independently operated
23 SNFs are one entity, and on that basis deny said allegations. Defendants are
24 otherwise without sufficient knowledge or information to admit or deny the
25 remaining allegations in Paragraph 171 and on that basis deny said allegations.

26 172. The allegations in Paragraph 172 purport to describe a document or
27 documents, such documents speak for themselves and, as such, no response is
28 required. Defendants otherwise deny the allegations to the extent they vary from the

1 written terms of the document or documents, and deny that Relator's
2 characterization of the document or documents is accurate. To the extent required,
3 Defendants are otherwise without sufficient knowledge or information to admit or
4 deny the remaining allegations in Paragraph 172 and on that basis deny said
5 allegations.

6 173. Ensign Services denies the allegations in Paragraph 173. The Ensign
7 Group is without sufficient knowledge or information to admit or deny the remaining
8 allegations in Paragraph 173 and on that basis denies said allegations.

9 174. The allegations in Paragraph 174 state legal conclusions to which no
10 response is required. The allegations in Paragraph 174 also purport to paraphrase,
11 state, or interpret law, regulations, or government agency guidance, or constitutes
12 legal arguments or legal conclusions about the same, and as such, said laws,
13 regulations, or government agency guidance speak for themselves and do not require
14 an answer. To the extent that the allegations in Paragraph 174 vary therefrom or
15 with other applicable statutory or decisional law, Defendants deny those allegations.
16 To the extent required, Defendants deny the allegations in Paragraph 174.

17 175. The allegations in the first sentence of Paragraph 175 purport to
18 paraphrase, state, or interpret law, regulations, or government agency guidance, or
19 constitutes legal arguments or legal conclusions about the same, and as such, said
20 laws, regulations, or government agency guidance speak for themselves and do not
21 require an answer. To the extent that the allegations in the first sentence of
22 Paragraph 175 vary therefrom or with other applicable statutory or decisional law,
23 Defendants deny those allegations. Defendants are without sufficient knowledge or
24 information to admit or deny the remaining allegations in Paragraph 175 because
25 there is no entity known as "Ensign," Defendants deny that Ensign Group and Ensign
26 Services are the same entity and deny that the Defendants and the independently
27 operated SNFs are one entity, and on that basis deny said allegations. To the extent
28 required, Defendants deny the allegations in Paragraph 175.

3. Ensign Paid Medical Directors and Consultants for Services Without Evidence that the Services Were Actually Performed.

3 176. Defendants deny Heading V.B.3. Defendants are without sufficient
4 knowledge or information to admit or deny the allegations in the first sentence of
5 Paragraph 176 because there is no entity known as “Ensign,” Defendants deny that
6 Ensign Group and Ensign Services are the same entity and deny that the Defendants
7 and the independently operated SNFs are one entity, and on that basis deny said
8 allegations. Defendants are without sufficient knowledge or information to admit or
9 deny the remaining allegations of Paragraph 176 and on that basis deny said
10 allegations.

11 177. Defendants deny the allegations in the first sentence of Paragraph 177.
12 Defendants are without sufficient knowledge or information to admit or deny the
13 remaining allegations of Paragraph 177 and on that basis deny said allegations.

14 178. The allegations in Paragraph 178 state legal conclusions to which no
15 response is required. To the extent required, Defendants deny the allegations in
16 Paragraph 178.

4. Ensign Engaged in This Misconduct (and Failed to Report it) Despite its Obligations under the October 2013 CIA with HHS-OIG.

19 179. Defendants deny Heading V.B.4. To the extent the allegations in
20 Paragraph 179 relate to claims that have been dismissed, they are surplusage and
21 should be stricken. Ensign Services admits that Relator participated in Ensign
22 Services' Compliance Committee meetings at various points in time during the
23 course of her employment. Defendants are otherwise without sufficient knowledge
24 or information to admit or deny the remaining allegations in Paragraph 179 and on
25 that basis deny said allegations.

26 180. To the extent the allegations in Paragraph 180 relate to claims that have
27 been dismissed, they are surplusage and should be stricken. Defendants admit that
28 Deborah M. Miller was The Ensign Group's Chief Compliance Officer and that the

1 Compliance Workplan was created by or under her direction in connection with the
2 2013 CIA. Defendants further admit that Ms. Miller reported to Christopher
3 Christensen, with a direct reporting line to the Board of Directors for the Ensign
4 Group as well. Defendants also admit that Ms. Miller was not subordinate to Ensign
5 Group's General Counsel. Defendants deny that there was any entity known as
6 "Ensign" and otherwise deny the remaining allegations in Paragraph 180.

7 181. To the extent the allegations in Paragraph 181 relate to claims that have
8 been dismissed, they are surplusage and should be stricken. The allegations in
9 Paragraph 181 purport to describe a document or documents, such documents speak
10 for themselves and, as such, no response is required. Defendants otherwise deny the
11 allegations to the extent they vary from the written terms of the document or
12 documents, and deny that Relator's characterization of the document or documents
13 is accurate. Ensign Services otherwise denies the remaining allegations in Paragraph
14 181. The Ensign Group is without sufficient knowledge or information to admit or
15 deny the remaining allegations in Paragraph 181 and on that basis denies said
16 allegations.

17 182. To the extent the allegations in Paragraph 182 relate to claims that have
18 been dismissed, they are surplusage and should be stricken. Defendants deny they
19 were involved in any "problematic" conduct at any time and further deny that there
20 was any entity known as "Ensign." Defendants are without sufficient knowledge or
21 information to admit or deny the remaining allegations in Paragraph 182 and, on this
22 basis, deny said allegations.

23 5. **Chronology of Relator's Experience With Problematic Physician
24 Payment Arrangements at Ensign**

25 183. Defendants deny Heading V.B.5. Ensign Services admits that Relator
26 started working at Ensign Services in November 2013. Defendants are without
27 sufficient knowledge or information to admit or deny the remaining allegations in
28 Paragraph 183 and on that basis deny said allegations.

1 184. To the extent the allegations in Paragraph 184 relate to claims that have
2 been dismissed, they are surplusage and should be stricken. Defendants admit that
3 Ensign Group signed the CIA in October 2013 and entered into a settlement with the
4 DOJ. Defendants are without sufficient knowledge or information to admit or deny
5 the remaining allegations in Paragraph 184 and on that basis deny said allegations.

6 185. Defendants deny that there was any entity known as “Ensign” and
7 otherwise deny the allegations in Paragraph 185.

8 186. Defendants are without sufficient knowledge or information to admit
9 or deny the allegations in the first sentence of Paragraph 186 because there is no
10 entity known as “Ensign,” Defendants deny that Ensign Group and Ensign Services
11 are the same entity and that the Defendants and the independently operated SNFs
12 are one entity, and on that basis deny said allegations. Defendants are otherwise
13 without sufficient knowledge or information to admit or deny the remaining
14 allegations in Paragraph 186, and on that basis denies said allegations.

15 187. To the extent the allegations in Paragraph 187 purport to describe a
16 document or documents, such documents speak for themselves and, as such, no
17 response is required. Defendants otherwise deny the allegations to the extent they
18 vary from the written terms of the document or documents, and deny that Relator’s
19 characterization of the document or documents is accurate. Ensign Services denies
20 that no guidelines on contracts existed. Defendants deny that there was any entity
21 known as “Ensign” and are otherwise without sufficient knowledge or information
22 to admit or deny the remaining allegations in Paragraph 187 and on that basis deny
23 said allegations.²

24 188. Ensign Services admits that Relator was a Contracts Manager for
25 Ensign Services and further admits that her role was not limited to Medical Director

26 27 2 To the extent that the allegations in footnote 2 purport to describe a document or
28 documents, the contents speak for themselves. Defendants otherwise deny the
allegations to the extent they vary from the written terms of the document or
documents, and deny that Relator’s characterization of the document or documents
is accurate.

1 Agreements. Ensign Services otherwise denies the remaining allegations in
2 Paragraph 188. The Ensign Group is without sufficient knowledge or information
3 to admit or deny the remaining allegations in Paragraph 188 and on that basis deny
4 said allegations.

5 189. Defendants deny that there was any entity known as "Ensign." Ensign
6 Services denies the allegations in Paragraph 189. The Ensign Group is without
7 sufficient knowledge or information to admit or deny the allegations in Paragraph
8 189 and on that basis, deny said allegations.

9 190. Defendants are without sufficient knowledge or information to admit
10 or deny the allegations in Paragraph 190 and on that basis deny said allegations.

11 191. Defendants are without sufficient knowledge or information to admit
12 or deny the allegations in Paragraph 191 and on that basis, deny said allegations.

13 192. Ensign Services admits that Matt Combe was, at one time, the
14 Administrator for Lemon Grove Rehabilitation Center. To the extent the allegations
15 in Paragraph 192 purport to describe a document or documents, such documents
16 speak for themselves and, as such, no response is required. Defendants otherwise
17 deny the allegations to the extent they vary from the written terms of the document
18 or documents, and deny that Relator's characterization of the document or
19 documents is accurate. Ensign Services denies the allegations in the second to last
20 sentence of Paragraph 192. To the extent required, Defendants are otherwise without
21 sufficient knowledge or information to admit or deny the remaining allegations in
22 Paragraph 192 and, on this basis, deny said allegations.

23 193. To the extent the allegations in Paragraph 193 purport to describe a
24 document or documents, such documents speak for themselves and, as such, no
25 response is required. Defendants otherwise deny the allegations to the extent they
26 vary from the written terms of the document or documents, and deny that Relator's
27 characterization of the document or documents is accurate. Ensign Services denies
28 the remaining allegations in Paragraph 193. The Ensign Group is without sufficient

1 knowledge or information to admit or deny the remaining allegations in Paragraph
2 193 and on that basis denies said allegations.

3 194. Ensign Services admits that it held AIT bootcamps. To the extent the
4 allegations in Paragraph 194 purport to describe a document or documents, such
5 documents speak for themselves and, as such, no response is required. Defendants
6 otherwise deny the allegations to the extent they vary from the written terms of the
7 document or documents, and deny that Relator's characterization of the document
8 or documents is accurate. Defendants deny that there was any entity known as
9 "Ensign." Defendants are without sufficient knowledge or information to admit or
10 deny the remaining allegations in Paragraph 194 and on that basis, deny said
11 allegations.

12 195. Ensign Services admits a meeting took place in Ms. Wittekind's office
13 on or about April 23, 2014 between Ms. Wittekind and Relator. However,
14 Defendants note that Relator was employed in the Contracts Department and had
15 access to privileged materials. To the extent that Relator's allegations in Paragraph
16 195 rely, implicitly or otherwise, on privileged communications with Ms. Wittekind
17 or any other member of the legal department, or any other privileged material Relator
18 had access to by virtue of her position at Ensign Services, Defendants state that
19 Relator is barred from violating privilege and improperly relying on privileged
20 communications and on that basis neither admit nor deny allegations relating to those
21 conversations or materials. To the extent the allegations in Paragraph 195 purport
22 to describe a document or documents, such documents speak for themselves and, as
23 such, no response is required. Defendants otherwise deny the allegations to the
24 extent they vary from the written terms of the document or documents, and deny that
25 Relator's characterization of the document or documents is accurate. Defendants
26 deny there was any entity known as "Ensign." Defendants are otherwise without
27 sufficient knowledge or information to admit or deny the remaining allegations in
28 Paragraph 195 and on that basis deny said allegations.

1 196. To the extent the allegations in Paragraph 196 purport to describe a
2 document or documents, such documents speak for themselves and, as such, no
3 response is required. Defendants otherwise deny the allegations to the extent they
4 vary from the written terms of the document or documents, and deny that Relator's
5 characterization of the document or documents is accurate. Ensign Services admits
6 that on or about April 23, 2014, Ensign Services did not mandate hourly rate
7 payments for Medical Directors. Ensign Services admits that Ms. Wittekind
8 discussed her understanding of certain business terms in place at the time, including
9 that hourly rates were routinely used as a metric for Medical Director payments prior
10 to Relator's hiring at Ensign Services. However, Defendants note that Relator was
11 employed in the Contracts Department and had access to privileged materials. To
12 the extent that Relator's allegations in Paragraph 196 rely, implicitly or otherwise,
13 on privileged communications with Ms. Wittekind or any other member of the legal
14 department, or any other privileged material Relator had access to by virtue of her
15 position at Ensign Services, Defendants state that Relator is barred from violating
16 privilege and improperly relying on privileged communications and on that basis
17 neither admit nor deny allegations relating to those conversations or materials.
18 Defendants are otherwise without sufficient knowledge or information to admit or
19 deny the remaining allegations in Paragraph 196 because there is no entity known as
20 "Ensign," Defendants deny that Ensign Group and Ensign Services are the same
21 entity and that the Defendants and the independently operated SNFs are one entity,
22 and on that basis denies said allegations.

23 197. Ensign Services admits that Ms. Wittekind and Relator discussed
24 certain business terms in place at the time. However, Defendants note that Relator
25 was employed in the Contracts Department and had access to privileged materials.
26 To the extent that Relator's allegations in this Paragraph rely, implicitly or
27 otherwise, on privileged communications with Ms. Wittekind or any other member
28 of the legal department, or any other privileged material Relator had access to by

1 virtue of her position at Ensign Services, Defendants state that Relator is barred from
2 violating privilege and improperly relying on privileged communications and on that
3 basis neither admit nor deny allegations relating to those conversations or materials.
4 To the extent the allegations in Paragraph 197 purport to describe a document or
5 documents, such documents speak for themselves and, as such, no response is
6 required. Defendants otherwise deny the allegations to the extent they vary from the
7 written terms of the document or documents, and deny that Relator's
8 characterization of the document or documents is accurate. Ensign Services
9 otherwise denies the remaining allegations in Paragraph 197. The Ensign Group is
10 without sufficient knowledge or information to admit or deny the remaining
11 allegations in Paragraph 197 and on that basis denies said allegations.

12 198. Ensign Services admit that Mr. Port travelled to the SNFs and knew
13 many of the SNF Facility Administrators. Ensign Services denies the remaining
14 allegations as to Mr. Port and Ms. Wittekind in Paragraph 198. Defendants are
15 otherwise without sufficient knowledge or information to admit or deny the
16 remaining allegations in Paragraph 198 and on that basis denies said allegations.

17 199. Ensign Services denies the allegations in Paragraph 199. The Ensign
18 Group is without sufficient knowledge or information to admit or deny the
19 allegations in Paragraph 199 and on that basis denies said allegations.

20 200. Ensign Services denies the allegations in Paragraph 200. The Ensign
21 Group is without sufficient knowledge or information to admit or deny the
22 allegations in Paragraph 200 and on that basis denies said allegations.

23 201. To the extent the allegations in Paragraph 201 purport to describe a
24 document or documents, such documents speak for themselves and, as such, no
25 response is required. Defendants otherwise deny the allegations to the extent they
26 vary from the written terms of the document or documents, and deny that Relator's
27 characterization of the document or documents is accurate. Defendants are
28 otherwise without sufficient knowledge or information to admit or deny the

1 allegations in Paragraph 201 and on that basis deny said allegations.

2 202. To the extent the allegations in Paragraph 202 purport to describe a
3 document or documents, such documents speak for themselves and, as such, no
4 response is required. Defendants otherwise deny the allegations to the extent they
5 vary from the written terms of the document or documents, and deny that Relator's
6 characterization of the document or documents is accurate. Defendants are
7 otherwise without sufficient knowledge or information to admit or deny the
8 allegations in Paragraph 202 and on that basis deny said allegations.

9 203. To the extent the allegations in Paragraph 203 purport to describe a
10 document or documents, such documents speak for themselves and, as such, no
11 response is required. Defendants otherwise deny the allegations to the extent they
12 vary from the written terms of the document or documents, and deny that Relator's
13 characterization of the document or documents is accurate. Defendants are
14 otherwise without sufficient knowledge or information to admit or deny the
15 allegations in Paragraph 203 and on that basis deny said allegations.

16 204. Defendants are without sufficient knowledge or information to admit
17 or deny the allegations in Paragraph 204 and on that basis, deny said allegations.

18 205. The Ensign Group admits that Premier Care SNF was owned at one
19 time by Ensign Palm I LLC, which was owned by Touchstone Care, Inc. The Ensign
20 Group admits that Chad Keetch was its Deputy General Counsel. However,
21 Defendants note that Relator was employed in the Contracts Department and had
22 access to privileged materials. To the extent that Relator's allegations in Paragraph
23 205 rely, implicitly or otherwise, on privileged communications with Mr. Keetch or
24 any other member of the legal department, or any other privileged material Relator
25 had access to by virtue of her position at Ensign Services, Defendants state that
26 Relator is barred from violating privilege and improperly relying on privileged
27 communications and on that basis neither admit nor deny allegations relating to those
28 conversations or materials. To the extent the allegations in Paragraph 205 purport

1 to describe a document or documents, such documents speak for themselves and, as
2 such, no response is required. Defendants otherwise deny the allegations to the
3 extent they vary from the written terms of the document or documents, and deny that
4 Relator's characterization of the document or documents is accurate. Defendants
5 are otherwise without sufficient knowledge or information to admit or deny the
6 remaining allegations in Paragraph 205 and on that basis deny said allegations.

7 206. To the extent the allegations in Paragraph 206 purport to describe a
8 document or documents, such documents speak for themselves and, as such, no
9 response is required. Defendants otherwise deny the allegations to the extent they
10 vary from the written terms of the document or documents, and deny that Relator's
11 characterization of the document or documents is accurate. Defendants are
12 otherwise without sufficient knowledge or information to admit or deny the
13 remaining allegations in Paragraph 206 and on that basis deny said allegations.

14 207. Ensign Group admits Brett Arnold worked in its Accounting
15 Department from September 15, 2014 through June 24, 2015. To the extent the
16 allegations in Paragraph 207 purport to describe a document or documents, such
17 documents speak for themselves and, as such, no response is required. Defendants
18 otherwise deny the allegations to the extent they vary from the written terms of the
19 document or documents, and deny that Relator's characterization of the document
20 or documents is accurate. Defendants are otherwise without sufficient knowledge
21 or information to admit or deny the remaining allegations in Paragraph 207 and on
22 that basis deny said allegations.

23 208. Ensign Services admits that Clay Gardner, Matthew Rutter, and Glenn
24 Matthews were Facility Administrators at Vista Knoll Specialized Care, The Springs
25 at Pacific Regent, and Carmel Mountain, respectively, on or around September 22,
26 2014. Ensign Services admits that it facilitates a travel-related incentive for certain
27 members of management of the independently operated SNFs who meet one or more
28 goals set by the independently operated SNFs associated with clinical and

1 operational performance. Ensign Services admits Arroyo Vista, Carmel Mountain
2 Rehabilitation, Lemon Grove Rehabilitation Center, The Springs, Vista Knoll, and
3 Palomar Vista Healthcare Center were part of the San Diego cluster on or about
4 September 22, 2014. Defendants are otherwise without sufficient knowledge or
5 information to admit or deny the allegations in Paragraph 208 because there is no
6 entity known as "Ensign," Defendants deny that Ensign Group and Ensign Services
7 are the same entity and deny that the Defendants and the independently operated
8 SNFs are one entity, and on that basis deny said allegations.

9 209. Defendants are without sufficient knowledge or information to admit
10 or deny the allegations in Paragraph 209 and on that basis deny said allegations.³

11 210. Defendants are without sufficient knowledge or information to admit
12 or deny the allegations in Paragraph 210 and on that basis deny said allegations.

13 211. To the extent the allegations in Paragraph 211 purport to describe a
14 document or documents, such documents speak for themselves and, as such, no
15 response is required. Defendants otherwise deny the allegations to the extent they
16 vary from the written terms of the document or documents, and deny that Relator's
17 characterization of the document or documents is accurate. Defendants are
18 otherwise without sufficient knowledge or information to admit or deny the
19 remaining allegations in Paragraph 211 and on that basis deny said allegations.

20 212. Ensign Services admits that Brian Squires was at one time Director of
21 Marketing for Sea Cliff Health Care. To the extent the allegations in Paragraph 212
22 purport to describe a document or documents, such documents speak for themselves
23

24 ³ The Ensign Group admits that the following SNFs were acquired in or about
25 2014: Mission Trails Healthcare, Inc., d/b/a Grossmont Post Acute Care; Nautilus
26 Healthcare, Inc., d/b/a The Cove At La Jolla; Portside Healthcare, Inc., d/b/a
Mission Hills Post Acute Care; Bayside Healthcare, Inc., d/b/a South Bay Post
27 Acute Care; and Claydelle Healthcare, Inc., d/b/a Somerset Subacute and Care.
28 Ensign Services admits that the above SNFs, as well as Parkside Health and
Wellness Center and Magnolia Post Acute Care, were at one time part of the San
Diego cluster. Defendants are otherwise without sufficient knowledge or
information to admit or deny the remaining allegations in footnote 3 and on that
basis deny said allegations.

1 and, as such, no response is required. Defendants otherwise deny the allegations to
2 the extent they vary from the written terms of the document or documents, and deny
3 that Relator's characterization of the document or documents is accurate.
4 Defendants deny the allegations in the last sentence of Paragraph 212. Defendants
5 are otherwise without sufficient knowledge or information to admit or deny the
6 remaining allegations in Paragraph 212 and on that basis deny said allegations.

7 213. Ensign Services admits that Michael Leinweber was at one time
8 Administrator for Village Healthcare and Rehabilitation. To the extent the
9 allegations in Paragraph 213 purport to describe a document or documents, such
10 documents speak for themselves and, as such, no response is required. Defendants
11 otherwise deny the allegations to the extent they vary from the written terms of the
12 document or documents, and deny that Relator's characterization of the document
13 or documents is accurate. Defendants otherwise deny the remaining allegations in
14 Paragraph 213.

15 214. Ensign Services admits that Doug Haney was at one time Administrator
16 of Bella Vita Health and Rehabilitation Center. Defendants are otherwise without
17 sufficient knowledge or information to admit or deny the allegations in Paragraph
18 214 and on that basis deny said allegations.

19 215. To the extent the allegations in Paragraph 215 purport to describe a
20 document or documents, such documents speak for themselves and, as such, no
21 response is required. Defendants otherwise deny the allegations to the extent they
22 vary from the written terms of the document or documents, and deny that Relator's
23 characterization of the document or documents is accurate. Defendants are
24 otherwise without sufficient knowledge or information to admit or deny the
25 allegations in Paragraph 215 and on that basis deny said allegations.

26 216. Ensign Services admits that Scott Meppen was, at one time, the
27 Operations Manager for Palomar Vista Healthcare Center and took over from David
28 Mayo. Defendants are otherwise without sufficient knowledge or information to

1 admit or deny the allegations in Paragraph 216 and on that basis deny said
2 allegations.

3 217. Defendants are without sufficient knowledge or information to admit
4 or deny the allegations in Paragraph 217 and on that basis deny said allegations.

5 218. Defendants are without sufficient knowledge or information to admit
6 or deny the allegations in Paragraph 218 and on that basis deny said allegations.

7 219. Defendants specifically deny that any complaints allegedly made by
8 Relator were “ignored” or “overruled.” Ensign Services denies the allegations
9 regarding Mr. Port. Defendants are otherwise without sufficient knowledge or
10 information to admit or deny the remaining allegations in Paragraph 219 because
11 there is no entity known as “Ensign,” Defendants deny that Ensign Group and Ensign
12 Services are the same entity and that the Defendants and the independently operated
13 SNFs are one entity, and on that basis deny said allegations.

14 220. To the extent the allegations in Paragraph 220 purport to describe a
15 document or documents, such documents speak for themselves and, as such, no
16 response is required. Defendants otherwise deny the allegations to the extent they
17 vary from the written terms of the document or documents, and deny that Relator’s
18 characterization of the document or documents is accurate. Defendants are
19 otherwise without sufficient knowledge or information to admit or deny the
20 remaining allegations in Paragraph 220 and on that basis deny said allegations.

21 221. To the extent the allegations in Paragraph 221 purport to describe a
22 document or documents, such documents speak for themselves and, as such, no
23 response is required. Defendants otherwise deny the allegations to the extent they
24 vary from the written terms of the document or documents, and deny that Relator’s
25 characterization of the document or documents is accurate. Defendants are without
26 sufficient knowledge or information to admit or deny the remaining allegations in
27 Paragraph 221 and on that basis deny said allegations.

28 222. To the extent the allegations in Paragraph 222 purport to describe a

1 document or documents, such documents speak for themselves and, as such, no
2 response is required. Defendants otherwise deny the allegations to the extent they
3 vary from the written terms of the document or documents, and deny that Relator's
4 characterization of the document or documents is accurate. Defendants are
5 otherwise without sufficient knowledge or information to admit or deny the
6 remaining allegations in Paragraph 222 and on that basis deny said allegations.

7 223. Defendants are without sufficient knowledge or information to admit
8 or deny the allegations in Paragraph 223 and on that basis deny said allegations.

9 224. Defendants are without sufficient knowledge or information to admit
10 or deny the allegations in Paragraph 224 and on that basis deny said allegations.

11 225. Ensign Services admit that Brad Albrechtsen was at one time the
12 Administrator of St. Joseph Villa. To the extent the allegations in Paragraph 225
13 purport to describe a document or documents, such documents speak for themselves
14 and, as such, no response is required. Defendants otherwise deny the allegations to
15 the extent they vary from the written terms of the document or documents, and deny
16 that Relator's characterization of the document or documents is accurate.
17 Defendants are otherwise without sufficient knowledge or information to admit or
18 deny the remaining allegations in Paragraph 225 and on that basis deny said
19 allegations.

20 226. To the extent the allegations in Paragraph 226 purport to describe a
21 document or documents, such documents speak for themselves and, as such, no
22 response is required. Defendants otherwise deny the allegations to the extent they
23 vary from the written terms of the document or documents, and deny that Relator's
24 characterization of the document or documents is accurate. Defendants are
25 otherwise without sufficient knowledge or information to admit or deny the
26 remaining allegations in Paragraph 226 and on that basis deny said allegations.

27 227. Ensign Services states that in or about January 2015, Relator met with
28 Beverly Wittekind, Chad Keech and Sapna Jain. However, Defendants note that

1 Relator was employed in the Contracts Department and had access to privileged
2 materials. To the extent that Relator's allegations in Paragraph 227 rely, implicitly
3 or otherwise, on privileged communications with Ms. Wittekind, Mr. Keetch, or any
4 other member of the legal department, or any other privileged material Relator had
5 access to by virtue of her position at Ensign Services, Defendants state that Relator
6 is barred from violating privilege and improperly relying on privileged
7 communications and on that basis neither admit nor deny allegations relating to those
8 conversations or materials. Defendants deny there was any entity known as
9 "Ensign." Defendants are otherwise without sufficient knowledge or information to
10 admit or deny the remaining allegations in Paragraph 227 and on that basis deny said
11 allegations.

12 228. Ensign Services admits Christina Warner was employed by it from
13 October 15, 2014 through January 7, 2015. However, Defendants note that Mr.
14 Warner and Relator were employed in the Contracts Department and had access to
15 privileged materials. To the extent that Relator's allegations in Paragraph 228 rely,
16 implicitly or otherwise, on privileged communications with Mr. Keetch, or any other
17 member of the legal department, or any other privileged material Relator had access
18 to by virtue of her position at Ensign Services, Defendants state that Relator is barred
19 from violating privilege and improperly relying on privileged communications and
20 on that basis neither admit nor deny allegations relating to those conversations or
21 materials. Defendants deny there was any entity known as "Ensign." Defendants
22 are otherwise without sufficient knowledge or information to admit or deny the
23 remaining allegations in Paragraph 228 and on that basis deny said allegations.

24 229. Defendants are without sufficient knowledge or information to admit
25 or deny the allegations in Paragraph 229 because there is no entity known as
26 "Ensign." Defendants deny that Ensign Group and Ensign Services are the same
27 entity and that the Defendants and the independently operated SNFs are one entity,
28 and on that basis deny said allegations.

1 230. To the extent the allegations in Paragraph 230 purport to describe a
2 document or documents, such documents speak for themselves and, as such, no
3 response is required. Defendants otherwise deny the allegations to the extent they
4 vary from the written terms of the document or documents, and deny that Relator's
5 characterization of the document or documents is accurate. Defendants are
6 otherwise without sufficient knowledge or information to admit or deny the
7 allegations in Paragraph 230 and on that basis deny said allegations.

8 231. To the extent the allegations in Paragraph 231 purport to describe a
9 document or documents, such documents speak for themselves and, as such, no
10 response is required. Defendants otherwise deny the allegations to the extent they
11 vary from the written terms of the document or documents, and deny that Relator's
12 characterization of the document or documents is accurate. Defendants otherwise
13 deny the allegations in Paragraph 231.

14 232. To the extent the allegations in Paragraph 232 purport to describe a
15 document or documents, such documents speak for themselves and, as such, no
16 response is required. Defendants otherwise deny the allegations to the extent they
17 vary from the written terms of the document or documents, and deny that Relator's
18 characterization of the document or documents is accurate. Defendants deny the
19 allegations in the second sentence of Paragraph 232. Defendants are otherwise
20 without sufficient knowledge or information to admit or deny the allegations in
21 Paragraph 232 and on that basis deny said allegations.

22 233. Ensign Services admits that Becky Jerke was at one time the
23 Administrator of Southland Rehabilitation and Healthcare. To the extent the
24 allegations in Paragraph 233 purport to describe a document or documents, such
25 documents speak for themselves and, as such, no response is required. Defendants
26 otherwise deny the allegations to the extent they vary from the written terms of the
27 document or documents, and deny that Relator's characterization of the document
28 or documents is accurate. Defendants are otherwise without sufficient knowledge

1 or information to admit or deny the remaining allegations in Paragraph 233 and on
2 that basis deny said allegations.

3 234. Ensign Services admits that Abe Oyler was at one time Administrator
4 of Heritage Gardens Rehabilitation & Healthcare and further admits that Robin Wun
5 was at one time an assistant in Contracts for Ensign Services. To the extent the
6 allegations in Paragraph 234 purport to describe a document or documents, such
7 documents speak for themselves and, as such, no response is required. Defendants
8 otherwise deny the allegations to the extent they vary from the written terms of the
9 document or documents, and deny that Relator's characterization of the document
10 or documents is accurate. Defendants are otherwise without sufficient knowledge
11 or information to admit or deny the remaining allegations in Paragraph 234 and on
12 that basis deny said allegations.

13 235. Ensign Services admits that in or about mid-May 2015, Relator had a
14 meeting with Deborah Miller and Chad Keech. Ensign Services further admits on
15 or about May 20, 2015, Relator had a meeting with Ms. Miller and Shelley Johnson.
16 However, Defendants note that Relator was employed in the Contracts Department
17 and had access to privileged materials. To the extent that Relator's allegations in
18 Paragraph 235 rely, implicitly or otherwise, on privileged communications with Ms.
19 Miller, Mr. Keetch or any other member of the legal department, or any other
20 privileged material Relator had access to by virtue of her position at Ensign Services,
21 Defendants state that Relator is barred from violating privilege and improperly
22 relying on privileged communications and on that basis neither admit nor deny
23 allegations relating to those conversations or materials. This includes, without
24 limitations, Relator's notes from any meeting with Ms. Miller, Mr. Keetch, and/or
25 any other member of the legal department at which privileged information was
26 discussed. Defendants deny there was any entity known as "Ensign." Defendants
27 are otherwise without sufficient knowledge or information to admit or deny the
28 remaining allegations in Paragraph 235 and on that basis deny said allegations.

1 236. Ensign Services admits that Joe Frustaci was at one time Administrator
2 of Magnolia Post Acute Care. To the extent the allegations in Paragraph 236 purport
3 to describe a document or documents, such documents speak for themselves and, as
4 such, no response is required. Defendants otherwise deny the allegations to the
5 extent they vary from the written terms of the document or documents, and deny that
6 Relator's characterization of the document or documents is accurate. Defendants
7 deny there was any entity known as "Ensign." Defendants are otherwise without
8 sufficient knowledge or information to admit or deny the remaining allegations in
9 Paragraph 236 and on that basis deny said allegations..

10 237. Defendants deny the allegations in the first and second sentences of
11 Paragraph 237. To the extent the allegations in Paragraph 237 purport to describe a
12 document or documents, such documents speak for themselves and, as such, no
13 response is required. Defendants otherwise deny the allegations to the extent they
14 vary from the written terms of the document or documents, and deny that Relator's
15 characterization of the document or documents is accurate. Defendants are
16 otherwise without sufficient knowledge or information to admit or deny the
17 remaining allegations in Paragraph 237 and on that basis deny said allegations.

18 238. Defendants admit that Cory Christensen is Christopher Christensen's
19 older brother and further admit that Cory Christensen was at one time Administrator
20 of Victoria Healthcare and Rehabilitation. To the extent the allegations in Paragraph
21 238 purport to describe a document or documents, such documents speak for
22 themselves and, as such, no response is required. Defendants deny the allegations
23 to the extent they vary from the written terms of the document or documents, and
24 deny that Relator's characterization of the document or documents is accurate.
25 Defendants deny there was any entity known as "Ensign." Defendants specifically
26 deny the allegations in the last sentence of Paragraph 238. Defendants are otherwise
27 without sufficient knowledge or information to admit or deny the remaining
28 allegations in Paragraph 238 and on that basis deny said allegations.

1 239. Defendants admit that Matt Oldroyd was at one time Administrator at
2 Parkside Health and Wellness Center. To the extent the allegations in Paragraph
3 239 purport to describe a document or documents, such documents speak for
4 themselves and, as such, no response is required. Defendants otherwise deny the
5 allegations to the extent they vary from the written terms of the document or
6 documents, and deny that Relator's characterization of the document or documents
7 is accurate. Defendants are otherwise without sufficient knowledge or information
8 to admit or deny the remaining allegations in Paragraph 239 and on that basis deny
9 said allegations.

10 240. Defendants deny that they had or have any aggressive or illegal
11 practices. Defendants are without sufficient knowledge or information to admit or
12 deny the allegations in the first sentence of Paragraph 240 because there is no entity
13 known as "Ensign," Defendants deny that Ensign Group and Ensign Services are the
14 same entity and deny that the Defendants and the independently operated SNFs are
15 one entity, and on that basis deny said allegations. Defendants are otherwise without
16 sufficient knowledge or information to admit or deny the remaining allegations in
17 Paragraph 240 and on that basis deny said allegations.

18 6. **The Physicians Ensign Paid Were Incentivized and in a Position to
19 Refer Government Health Care Program Patients to Ensign
Facilities**

20 241. Defendants deny Heading V.B.6. To the extent the allegations in
21 Paragraph 241 purport to describe a document or documents, such documents speak
22 for themselves and, as such, no response is required. Defendants otherwise deny the
23 allegations to the extent they vary from the written terms of the document or
24 documents, and deny that Relator's characterization of the document or documents
25 is accurate. Defendants deny that there was any entity known as "Ensign."
26 Defendants are otherwise without sufficient knowledge or information to admit or
27 deny the remaining allegations in Paragraph 241 and on that basis deny said
28 allegations.

1 242. Defendants admit that while Relator was employed at Ensign Services
2 she had access to multiple documents. Defendants are otherwise without sufficient
3 knowledge or information to admit or deny the remaining allegations in Paragraph
4 242 because there is no entity known as "Ensign," Defendants deny that Ensign
5 Group and Ensign Services are the same entity and that the Defendants and the
6 independently operated SNFs are one entity, and on that basis deny said allegations.

7 243. Ensign Services admits that Arroyo Vista Nursing Center, Lemon
8 Grove Care and Rehabilitation Center, Carmel Mountain Rehabilitation &
9 Healthcare Center, The Springs at Pacific Regent, La Jolla Palomar, Vista
10 Healthcare Center, Vista Knoll Specialized Care, Parkside Health and Wellness
11 Center, Parkside Health and Wellness Center, and Somerset Subacute and Care were
12 at one time part of the San Diego cluster. Ensign Services further admits that Clay
13 Gardner was at one time Administrator of Lemon Grove Care and Rehabilitation
14 Center, Glenn Matthews was at one time Administrator of Carmel Mountain
15 Rehabilitation & Healthcare Center, Matthew Rutter was at one time Administrator
16 of The Springs at Pacific Regent La Jolla, Scott Meppen was at one time
17 Administrator of Palomar Vista Healthcare Center, Matt Oldroyd was at one time
18 Administrator of Parkside Health and Wellness Center, and Joe Frustaci was at one
19 time Administrator of Parkside Health and Wellness Center. Ensign Services denies
20 the remaining allegations in Paragraph 243. The Ensign Group is without sufficient
21 knowledge or information to admit or deny the remaining allegations in Paragraph
22 243 and on that basis deny said allegations.

23 244. Defendants are without sufficient knowledge or information to admit
24 or deny the remaining allegations in Paragraph 244 and on that basis deny said
25 allegations.

26 245. Defendants deny the allegations in Paragraph 245.

27
28

1 **7. Damages and Penalties Attributable to Ensign's Illegal Physician
2 Compensation Scheme**

3 246. Defendants deny Heading V.B.7. To the extent the allegations in
4 Paragraph 246 relate to claims that have been dismissed, they are surplusage and
5 should be stricken. The allegations in Paragraph 246 state legal conclusions to which
6 no response is required. To the extent required, Defendants deny that there was any
7 entity known as "Ensign" and otherwise deny the allegations in Paragraph 246.

8 247. The allegations in Paragraph 247 state legal conclusions to which no
9 response is required. To the extent required, Defendants deny the allegations in
10 Paragraph 247.

11 248. The allegations in Paragraph 248 state legal conclusions to which no
12 response is required. To the extent required, Defendants deny the allegations in
13 Paragraph 248.

14 **C. Ensign Engaged in an Unlawful Kickback Scheme Known as
15 "Swapping" With Axiom Mobile Imaging**

16 249. Defendants deny Heading V.C. The allegations in Paragraph 249 state
17 legal conclusions to which no response is required. Defendants are otherwise
18 without sufficient knowledge or information to admit or deny the allegations in
19 Paragraph 249 because there is no entity known as "Ensign," Defendants deny that
20 Ensign Group and Ensign Services are the same entity and that the Defendants and
21 the independently operated SNFs are one entity, and on that basis deny said
22 allegations.

23 250. The allegations in Paragraph 250 purport to paraphrase, state, or
24 interpret law, regulations, or Medicaid guidance, or constitutes legal arguments or
25 legal conclusions about the same, and as such, said laws, regulations, or Medicaid
26 guidance speak for themselves and do not require an answer. To the extent that the
27 allegations in Paragraph 250 vary therefrom or with other applicable statutory or
28 decisional law, Defendants deny those allegations. To the extent required,

1 Defendants deny the allegations in Paragraph 250.

2 251. The allegations in Paragraph 251 purport to paraphrase, state, or
3 interpret law, regulations, or Medicaid guidance, or constitutes legal arguments or
4 legal conclusions about the same, and as such, said laws, regulations, or Medicaid
5 guidance speak for themselves and do not require an answer. To the extent that the
6 allegations in Paragraph 251 vary therefrom or with other applicable statutory or
7 decisional law, Defendants deny those allegations. Defendants are otherwise
8 without sufficient knowledge or information to admit or deny the remaining
9 allegations in Paragraph 251 and on that basis deny said allegations.

10 252. Defendants are without sufficient knowledge or information to admit
11 or deny the allegations in the last sentence of Paragraph 252 and on that basis deny
12 said allegations. The allegations in Paragraph 252 purport to paraphrase, state, or
13 interpret law, regulations, or Medicaid guidance, or constitutes legal arguments or
14 legal conclusions about the same, and as such, said laws, regulations, or Medicaid
15 guidance speak for themselves and do not require an answer. To the extent required,
16 Defendants deny the remaining allegations in Paragraph 252.

17 253. Defendants are without sufficient knowledge or information to admit
18 or deny the allegations in Paragraph 253 and on that basis deny said allegations.

19 254. The allegations in Paragraph 254 state legal conclusions to which no
20 response is required. To the extent required, Defendants deny the allegations in
21 Paragraph 254.

22 255. Defendants are without sufficient knowledge or information to admit
23 or deny the remaining allegations in Paragraph 255 because there is no entity known
24 as "Ensign," Defendants deny that Ensign Group and Ensign Services are the same
25 entity and that the Defendants and the independently operated SNFs are one entity,
26 and on that basis deny said allegations.

27 256. To the extent the allegations in Paragraph 256 purport to describe a
28 document or documents, such documents speak for themselves and, as such, no

1 response is required. Defendants otherwise deny the allegations to the extent they
2 vary from the written terms of the document or documents, and deny that Relator's
3 characterization of the document or documents is accurate. Defendants deny that
4 there was any entity known as Ensign. Defendants are otherwise without sufficient
5 knowledge or information to admit or deny the remaining allegations in Paragraph
6 256 and on that basis deny said allegations.

7 257. To the extent the allegations in Paragraph 257 purport to describe a
8 document or documents, such documents speak for themselves and, as such, no
9 response is required. Defendants otherwise deny the allegations to the extent they
10 vary from the written terms of the document or documents, and deny that Relator's
11 characterization of the document or documents is accurate. Defendants deny that
12 there was any entity known as Ensign. Defendants are otherwise without sufficient
13 knowledge or information to admit or deny the remaining allegations in Paragraph
14 257 and on that basis deny said allegations.

15 258. To the extent the allegations in Paragraph 258 purport to describe a
16 document or documents, such documents speak for themselves and, as such, no
17 response is required. Defendants otherwise deny the allegations to the extent they
18 vary from the written terms of the document or documents, and deny that Relator's
19 characterization of the document or documents is accurate. Defendants are
20 otherwise without sufficient knowledge or information to admit or deny the
21 remaining allegations in Paragraph 258 because there is no entity known as
22 "Ensign," Defendants deny that Ensign Group and Ensign Services are the same
23 entity and that the Defendants and the independently operated SNFs are one entity,
24 and on that basis deny said allegations.

25 259. Defendants deny the allegations in Paragraph 259.

26 260. To the extent the allegations in Paragraph 260 purport to describe a
27 document or documents, such documents speak for themselves and, as such, no
28 response is required. Defendants otherwise deny the allegations to the extent they

1 vary from the written terms of the document or documents, and deny that Relator's
2 characterization of the document or documents is accurate. Defendants are
3 otherwise without sufficient knowledge or information to admit or deny the
4 remaining allegations in Paragraph 260 and on that basis deny said allegations.

5 261. To the extent the allegations in Paragraph 261 relate to claims that have
6 been dismissed, they are surplusage and should be stricken. Defendants admit the
7 CIA was signed by Deborah Miller and Christopher Christensen on October 1, 2013.
8 Defendants deny that there was any entity known as "Ensign" and otherwise deny
9 the remaining allegations in Paragraph 261.

10 262. Defendants deny that there was any entity known as "Ensign" and
11 otherwise deny the allegations in Paragraph 262.

12 263. The allegations in Paragraph 263 state legal conclusions to which no
13 response is required. To the extent required, Defendants deny the allegations in
14 Paragraph 263.

15 264. To the extent the allegations in Paragraph 264 relate to claims that have
16 been dismissed, they are surplusage and should be stricken. To the extent required,
17 Defendants deny that there was any entity known as "Ensign" and otherwise deny
18 the allegations in Paragraph 264.

19 265. Defendants are without sufficient knowledge or information to admit
20 or deny the allegations in the first sentence of Paragraph 265. Defendants are
21 otherwise without sufficient knowledge or information to admit or deny the
22 remaining allegations in Paragraph 265 because there is no entity known as
23 "Ensign," Defendants deny that Ensign Group and Ensign Services are the same
24 entity and that the Defendants and the independently operated SNFs are one entity,
25 and on that basis deny said allegations.

26 266. Ensign Services admits that Mike Conrad was at one time
27 Administrator of Salado Creek. To the extent the allegations in Paragraph 266
28 purport to describe a document or documents, such documents speak for themselves

1 and, as such, no response is required. Defendants otherwise deny the allegations to
2 the extent they vary from the written terms of the document or documents, and deny
3 that Relator's characterization of the document or documents is accurate.
4 Defendants are otherwise without sufficient knowledge or information to admit or
5 deny the remaining allegations in Paragraph 266 and on that basis deny said
6 allegations.

7 267. Ensign Services admits that Edward Dove was at one time
8 Administrator of Victoria Post Acute Care. To the extent the allegations in
9 Paragraph 267 purport to describe a document or documents, such documents speak
10 for themselves and, as such, no response is required. Defendants otherwise deny the
11 allegations to the extent they vary from the written terms of the document or
12 documents, and deny that Relator's characterization of the document or documents
13 is accurate. Defendants are otherwise without sufficient knowledge or information
14 to admit or deny the remaining allegations in Paragraph 267 and on that basis deny
15 said allegations.

16 **D. Ensign Knowingly Failed to Report Violations of Its Corporate
17 Integrity Agreement in an Effort to Avoid Paying Penalties Owed
to the United States.**

18 268. Defendants deny Heading V.C.2.D. To the extent the allegations in
19 Paragraph 268 relate to claims that have been dismissed, they are surplusage and
20 should be stricken. Defendants admit that the Ensign Group entered into a CIA with
21 HHS-OIG on October 1, 2013, and further admit that "Covered Persons" has a
22 specific definition in the CIA. Defendants admit that there are over 140 SNFs
23 affiliated with The Ensign Group. Defendants deny that there was any entity known
24 as "Ensign." Defendants otherwise deny the remaining allegations in Paragraph 268.

25 269. To the extent the allegations in Paragraph 269 relate to claims that have
26 been dismissed, they are surplusage and should be stricken. Defendants admit the
27 allegations in Paragraph 269.

28 270. To the extent the allegations in Paragraph 270 relate to claims that have

1 been dismissed, they are surplusage and should be stricken. Defendants admit that
2 Mr. Christensen signed the CIA as then President and Chief Executive Officer of
3 The Ensign Group and a member of its Board of Directors, and admit that Deborah
4 Miller, Chief Compliance Officer of The Ensign Group also signed the CIA.
5 Defendants deny there was any entity known as “Ensign” and otherwise deny the
6 remaining allegations in Paragraph 270.

7 271. To the extent the allegations in Paragraph 271 relate to claims that have
8 been dismissed, they are surplusage and should be stricken. Defendants admit the
9 term of the CIA was five years. Defendants deny the remaining allegations in
10 Paragraph 271.

11 272. To the extent the allegations in Paragraph 272 relate to claims that have
12 been dismissed, they are surplusage and should be stricken. To the extent the
13 allegations in Paragraph 272 purport to describe a document or documents, such
14 documents speak for themselves and, as such, no response is required. Defendants
15 otherwise deny the allegations to the extent they vary from the written terms of the
16 document or documents, and deny that Relator’s characterization of the document
17 or documents is accurate. Defendants deny that there was any entity known as
18 “Ensign.” Defendants are otherwise without sufficient knowledge or information to
19 admit or deny the remaining allegations in Paragraph 272 and on that basis, deny
20 said allegations.

21 273. To the extent the allegations in Paragraph 273 relate to claims that have
22 been dismissed, they are surplusage and should be stricken. To the extent the
23 allegations in Paragraph 273 purport to describe a document or documents, such
24 documents speak for themselves and, as such, no response is required. Defendants
25 otherwise deny the allegations to the extent they vary from the written terms of the
26 document or documents, and deny that Relator’s characterization of the document
27 or documents is accurate. Defendants deny the remaining allegations of Paragraph
28 273.

1 274. To the extent the allegations in Paragraph 274 relate to claims that have
2 been dismissed, they are surplusage and should be stricken. To the extent the
3 allegations in Paragraph 274 purport to describe a document or documents, such
4 documents speak for themselves and, as such, no response is required. Defendants
5 otherwise deny the allegations to the extent they vary from the written terms of the
6 document or documents, and deny that Relator's characterization of the document
7 or documents is accurate. Defendants deny that there was any entity known as
8 "Ensign." Defendants otherwise deny the remaining allegations of Paragraph 274.

9 275. To the extent the allegations in Paragraph 275 relate to claims that have
10 been dismissed, they are surplusage and should be stricken. To the extent the
11 allegations in Paragraph 275 purport to describe a document or documents, such
12 documents speak for themselves and, as such, no response is required. Defendants
13 otherwise deny the allegations to the extent they vary from the written terms of the
14 document or documents, and deny that Relator's characterization of the document
15 or documents is accurate. Defendants deny that there was any entity known as
16 "Ensign." Defendants otherwise deny the remaining allegations of Paragraph 275.

17 276. To the extent the allegations in Paragraph 276 relate to claims that have
18 been dismissed, they are surplusage and should be stricken. To the extent the
19 allegations in Paragraph 276 purport to describe a document or documents, such
20 documents speak for themselves and, as such, no response is required. Defendants
21 otherwise deny the allegations to the extent they vary from the written terms of the
22 document or documents, and deny that Relator's characterization of the document
23 or documents is accurate. Defendants deny that there was any entity known as
24 "Ensign." Defendants otherwise deny the remaining allegations of Paragraph 276.

25 277. To the extent the allegations in Paragraph 277 relate to claims that have
26 been dismissed, they are surplusage and should be stricken. To the extent the
27 allegations in Paragraph 277 purport to describe a document or documents, such
28 documents speak for themselves and, as such, no response is required. Defendants

1 otherwise deny the allegations to the extent they vary from the written terms of the
2 document or documents, and deny that Relator's characterization of the document
3 or documents is accurate. Defendants deny that there was any entity known as
4 "Ensign." Defendants otherwise deny the remaining allegations of Paragraph 277.

5 278. To the extent the allegations in Paragraph 278 relate to claims that have
6 been dismissed, they are surplusage and should be stricken. Defendants admit that
7 Deborah Miller was a signatory to the CIA and was then Chief Compliance Officer
8 of Ensign Group. Defendants deny that, as Chief Compliance Officer, Ms. Miller
9 reported solely to Christopher Christensen. Defendants admit that Ms. Miller
10 reported on her daily duties to Christopher Christensen who was the President and
11 CEO of The Ensign Group until May 2019. To the extent the allegations in
12 Paragraph 278 purport to describe a document or documents, such documents speak
13 for themselves and, as such, no response is required. Defendants otherwise deny the
14 allegations to the extent they vary from the written terms of the document or
15 documents, and deny that Relator's characterization of the document or documents
16 is accurate. Defendants deny that there was any entity known as "Ensign."
17 Defendants otherwise deny the remaining allegations of Paragraph 278.

18 279. To the extent the allegations in Paragraph 279 relate to claims that have
19 been dismissed, they are surplusage and should be stricken. Defendants deny that
20 there was any entity known as "Ensign" and otherwise deny the allegations in
21 Paragraph 279.

22 280. To the extent the allegations in Paragraph 280 relate to claims that have
23 been dismissed, they are surplusage and should be stricken. The allegations in
24 Paragraph 280 state legal conclusions to which no response is required. To the extent
25 required, Defendants deny that there was any entity known as "Ensign," deny that
26 each of them and the independently operated SNFs are one entity, and otherwise
27 deny the allegations in Paragraph 280.

28 281. To the extent the allegations in Paragraph 281 relate to claims that have

1 been dismissed, they are surplusage and should be stricken. The allegations in
2 Paragraph 281 state legal conclusions to which no response is required. To the extent
3 required, Defendants deny that there was any entity known as “Ensign,” deny that
4 each of them and the independently operated SNFs are one entity, and otherwise
5 deny the allegations in Paragraph 281.

6 282. To the extent the allegations in Paragraph 282 relate to claims that have
7 been dismissed, they are surplusage and should be stricken. The allegations in
8 Paragraph 282 state legal conclusions to which no response is required. To the extent
9 required, Defendants deny that there was any entity known as “Ensign,” deny that
10 each of them and the independently operated SNFs are one entity, and otherwise
11 deny the allegations in Paragraph 282.

12 **VI. CLAIMS FOR RELIEF**

13 **Count I**
14 **Federal False Claims Act**
15 **31 U.S.C. § 3729(a)(1) (1986)**
16 **31 U.S.C. § 3729(a)(1)(A) (2009)**

17 283. Defendants incorporate their responses to each and every allegation set
18 forth in paragraphs 1-282 as if fully stated herein.

19 284. The allegations in Paragraph 284 purport to describe a legal claim for
20 relief, which speaks for itself and to which no response is required. To the extent
21 required, Defendants deny the allegations in Paragraph 284.

22 285. The allegations in Paragraph 285 state legal conclusions to which no
23 response is required. To the extent required, Defendants deny the allegations in
24 Paragraph 285.

25 286. The allegations in Paragraph 286 state legal conclusions to which no
26 response is required. To the extent required, Defendants deny the allegations in
27 Paragraph 286.

28 287. The allegations in Paragraph 287 state legal conclusions to which no
29 response is required. To the extent required, Defendants deny the allegations in

1 Paragraph 287.

2 288. The allegations in Paragraph 288 state legal conclusions to which no
3 response is required. To the extent required, Defendants deny the allegations in
4 Paragraph 288.

5 289. The allegations in Paragraph 289 state legal conclusions to which no
6 response is required. To the extent required, Defendants deny the allegations in
7 Paragraph 289.

8 **Count II**
9 **Federal False Claims Act**
10 **31 U.S.C. § 3729(a)(2) (1986)**
11 **31 U.S.C. § 3729(a)(1)(B) (2009)**

12 290. Defendants incorporate their responses to each and every allegation set
13 forth in paragraphs 1-289 as if fully stated herein.

14 291. The allegations in Paragraph 291 purport to describe a legal claim for
15 relief, , which speaks for itself and to which no response is required. To the extent
16 required, Defendants deny the allegations in Paragraph 291.

17 292. The allegations in Paragraph 292 state legal conclusions to which no
18 response is required. To the extent required, Defendants deny the allegations in
19 Paragraph 292.

20 293. The allegations in Paragraph 293 state legal conclusions to which no
21 response is required. To the extent required, Defendants deny the allegations in
22 Paragraph 293.

23 294. The allegations in Paragraph 294 state legal conclusions to which no
24 response is required. To the extent required, Defendants deny the allegations in
25 Paragraph 294.

26 295. The allegations in Paragraph 295 state legal conclusions to which no
27 response is required. To the extent required, Defendants deny the allegations in
28 Paragraph 295.

296. The allegations in Paragraph 296 state legal conclusions to which no

1 response is required. To the extent required, Defendants deny the allegations in
2 Paragraph 296.

3 **Count III**
4 **Federal False Claims Act**
5 **31 U.S.C. § 3729(a)(1)(G) (2009)**

6 297. Defendants incorporate their responses to each and every allegation set
7 forth in paragraphs 1 through 296 as if fully stated herein. To the extent required,
8 Defendants state that this claim was dismissed by Order of this Court on March 29,
9 2022 (Dkt. 139), and on that basis deny the allegations in Paragraph 298.

10 298. The allegations in Paragraph 298 purport to describe a legal claim for
11 relief, which speaks for itself and to which no response is required. To the extent
12 required, Defendants state that this claim was dismissed by Order of this Court on
13 March 29, 2022 (Dkt. 139), and on that basis deny the allegations in Paragraph 298.

14 299. The allegations in Paragraph 299 state legal conclusions to which no
15 response is required. To the extent required, Defendants state that this claim was
16 dismissed by Order of this Court on March 29, 2022 (Dkt. 139), and on that basis
17 deny the allegations in Paragraph 299.

18 300. The allegations in Paragraph 300 state legal conclusions to which no
19 response is required. To the extent required, Defendants state that this claim was
20 dismissed by Order of this Court on March 29, 2022 (Dkt. 139), and on that basis
21 deny the allegations in Paragraph 300.

22 301. The allegations in Paragraph 301 state legal conclusions to which no
23 response is required. To the extent required, Defendants state that this claim was
24 dismissed by Order of this Court on March 29, 2022 (Dkt. 139), and on that basis
25 deny the allegations in Paragraph 301.

26 302. The allegations in Paragraph 302 state legal conclusions to which no
27 response is required. To the extent required, Defendants state that this claim was
28 dismissed by Order of this Court on March 29, 2022 (Dkt. 139), and on that basis
29 deny the allegations in Paragraph 302.

Count IV
Federal False Claims Act
31 U.S.C. § 3729(a)(3) (1986)
U.S.C. § 3729(a)(1)(C) (2009)

303. Defendants incorporate their responses to each and every allegation set forth in paragraphs 1 through 302 as if fully stated herein.

304. The allegations in Paragraph 304 purport to describe a legal claim for relief, which speaks for itself and to which no response is required. To the extent required, Defendants deny the allegations in Paragraph 304.

305. The allegations in Paragraph 305 state legal conclusions to which no response is required. To the extent required, Defendants deny the allegations in Paragraph 305.

306. The allegations in Paragraph 306 state legal conclusions to which no response is required. To the extent required, Defendants deny the allegations in Paragraph 306.

307. The allegations in Paragraph 307 state legal conclusions to which no response is required. To the extent required, Defendants deny the allegations in Paragraph 307.

308. The allegations in Paragraph 308 state legal conclusions to which no response is required. To the extent required, Defendants deny the allegations in Paragraph 308.

309. The allegations in Paragraph 309 state legal conclusions to which no response is required. To the extent required, Defendants deny the allegations in Paragraph 309.

Count V
California False Claims Act
Cal. Gov't Code § 12651(a)(1)

310. Defendants incorporate their responses to each and every allegation set forth in paragraphs 1 through 309 as if fully stated herein.

311. The allegations in Paragraph 311 purport to describe a legal claim for

1 relief, which speaks for itself and to which no response is required. To the extent
2 required, Defendants deny the allegations in Paragraph 311.

3 312. The allegations in Paragraph 312 state legal conclusions to which no
4 response is required. To the extent required, Defendants deny the allegations in
5 Paragraph 312.

6 313. The allegations in Paragraph 313 state legal conclusions to which no
7 response is required. To the extent required, Defendants deny the allegations in
8 Paragraph 313.

9 314. The allegations in Paragraph 314 state legal conclusions to which no
10 response is required. To the extent required, Defendants deny the allegations in
11 Paragraph 314.

12 315. The allegations in Paragraph 315 state legal conclusions to which no
13 response is required. To the extent required, Defendants deny the allegations in
14 Paragraph 315.

15 **Count VI**
16 **California False Claims Act**
17 **Cal. Gov't Code § 12651(a)(2)**

18 316. Defendants incorporate their responses to each and every allegation set
forth in paragraphs 1 through 315 as if fully stated herein.

19 317. The allegations in Paragraph 317 purport to describe a legal claim for
20 relief, which speaks for itself and to which no response is required. To the extent
21 required, Defendants deny the allegations in Paragraph 317.

22 318. The allegations in Paragraph 318 state legal conclusions to which no
23 response is required. To the extent required, Defendants deny the allegations in
24 Paragraph 318.

25 319. The allegations in Paragraph 319 state legal conclusions to which no
26 response is required. To the extent required, Defendants deny the allegations in
27 Paragraph 319.

28 320. The allegations in Paragraph 320 state legal conclusions to which no

1 response is required. To the extent required, Defendants deny the allegations in
2 Paragraph 320.

3 321. The allegations in Paragraph 321 state legal conclusions to which no
4 response is required. To the extent required, Defendants deny the allegations in
5 Paragraph 321.

6 **Count VII**
7 **California False Claims Act**
8 **Cal. Gov't Code § 12651(a)(7)**

9 322. Defendants incorporate their responses to each and every allegation set
10 forth in paragraphs 1 through 322 as if fully stated herein.⁴

11 323. The allegations in Paragraph 323 purport to describe a legal claim for
12 relief, which speaks for itself and to which no response is required. To the extent
13 required, Defendants deny the allegations in Paragraph 323.⁵

14 324. The allegations in Paragraph 324 state legal conclusions to which no
15 response is required. To the extent required, Defendants deny the allegations in
16 Paragraph 324.⁶

17 325. The allegations in Paragraph 325 state legal conclusions to which no
18 response is required. To the extent required, Defendants deny the allegations in
19 Paragraph 325.⁷

20 ⁴ Defendants believe that the Court's ruling dismissing Relator's third cause of
21 action (federal reverse false claims cause of action) on March 29, 2022 (Dkt. 139)
22 applies equally to Relator's seventh cause of action (California reverse false claims
23 cause of action), and on that basis deny the allegations in Paragraph 322.

24 ⁵ Defendants believe that the Court's ruling dismissing Relator's third cause of
25 action (federal reverse false claims cause of action) on March 29, 2022 (Dkt. 139)
26 applies equally to Relator's seventh cause of action (California reverse false claims
27 cause of action), and on that basis deny the allegations in Paragraph 323.

28 ⁶ Defendants believe that the Court's ruling dismissing Relator's third cause of
29 action (federal reverse false claims cause of action) on March 29, 2022 (Dkt. 139)
30 applies equally to Relator's seventh cause of action (California reverse false claims
31 cause of action), and on that basis deny the allegations in Paragraph 324.

⁷ Defendants believe that the Court's ruling dismissing Relator's third cause of
32 action (federal reverse false claims cause of action) on March 29, 2022 (Dkt. 139)
33 applies equally to Relator's seventh cause of action (California reverse false claims
34 cause of action), and on that basis deny the allegations in Paragraph 325.

1 326. The allegations in Paragraph 326 state legal conclusions to which no
2 response is required. To the extent required, Defendants deny the allegations in
3 Paragraph 326.⁸

4 327. The allegations in Paragraph 327 state legal conclusions to which no
5 response is required. To the extent required, Defendants deny the allegations in
6 Paragraph 327.⁹

Count VIII
California False Claims Act
Cal. Gov't Code § 12651(a)(8)

9 328. Defendants incorporate their responses to each and every allegation set
10 forth in paragraphs 1 through 327 as if fully stated herein.

11 329. The allegations in Paragraph 329 purport to describe a legal claim for
12 relief, which speaks for itself and to which no response is required. To the extent
13 required, Defendants deny the allegations in Paragraph 329.

14 330. The allegations in Paragraph 330 state legal conclusions to which no
15 response is required. To the extent required, Defendants deny the allegations in
16 Paragraph 330.

17 331. The allegations in Paragraph 331 state legal conclusions to which no
18 response is required. To the extent required, Defendants deny the allegations in
19 Paragraph 331.

20 332. The allegations in Paragraph 332 state legal conclusions to which no
21 response is required. To the extent required, Defendants deny the allegations in
22 Paragraph 332.

25 ⁸ Defendants believe that the Court’s ruling dismissing Relator’s third cause of
26 action (federal reverse false claims cause of action) on March 29, 2022 (Dkt. 139)
 applies equally to Relator’s seventh cause of action (California reverse false claims
 cause of action), and on that basis deny the allegations in Paragraph 326.

27 ⁹ Defendants believe that the Court’s ruling dismissing Relator’s third cause of
28 action (federal reverse false claims cause of action) on March 29, 2022 (Dkt. 139)
applies equally to Relator’s seventh cause of action (California reverse false claims
cause of action), and on that basis deny the allegations in Paragraph 327.

Count IX
California False Claims Act
Cal. Gov't Code § 12651(a)(3)

333. Defendants incorporate their responses to each and every allegation set forth in paragraphs 1 through 332 above as if fully stated herein.

334. The allegations in Paragraph 334 purport to describe a legal claim for relief, which speaks for itself and to which no response is required. To the extent required, Defendants deny the allegations in Paragraph 334.

335. The allegations in Paragraph 335 state legal conclusions to which no response is required. To the extent required, Defendants deny the allegations in Paragraph 335.

336. The allegations in Paragraph 336 state legal conclusions to which no response is required. To the extent required, Defendants deny the allegations in Paragraph 336.

337. The allegations in Paragraph 337 state legal conclusions to which no response is required. To the extent required, Defendants deny the allegations in Paragraph 337.

338. The allegations in Paragraph 338 state legal conclusions to which no response is required. To the extent required, Defendants deny the allegations in Paragraph 338.

VII PRAYERS FOR BELIEF

WHEREFORE, Plaintiff-Relator prays for judgment against Defendants as follows:

- a. That Defendants cease and desist from violating the federal False Claims Act, 31 U.S.C. §§ 3729, *et seq.*, and the State of California False Claims Act;
- b. That this Court enter judgment against Defendants in an amount equal to three times the amount of damages the United States has sustained because of Defendants' actions, plus the maximum statutory civil penalty for each violation of 31 U.S.C. § 3729;
- c. That this Court enter judgment against Defendants in an amount equal to three times the amount of damages the State of California has sustained because of Defendants' actions, plus the maximum

statutory civil penalty for each violation of the California False Claims Act;

- d. That Plaintiff-Relator be awarded the maximum amount allowed pursuant to the False Claims Act, 31 U.S.C. § 3730(d), and California False Claims Act, Cal. Gov't Code § 12652(g);
- e. That Plaintiff-Relator be awarded all attorneys' fees, costs, and expenses; and
- f. That the Plaintiffs United States and the State of California, and Plaintiff-Relator recover such other and further relief as the Court deems just and proper.

Defendants deny that Relator is entitled to any of the relief requested in the Second Amended Complaint, or to any relief whatsoever.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff-Relator hereby demands a trial by jury.

Defendants deny that Relator is entitled to any of the relief requested in the Second Amended Complaint.

GENERAL DENIAL

Defendants deny each and every allegation in Relator's SAC that has not been admitted or responded to specifically. To the extent any allegations of fact remain unanswered, they are denied by Defendants. Defendants further deny that Relator is entitled to any of the relief sought in the Prayer for Relief, or any relief whatsoever.

AFFIRMATIVE DEFENSES

Defendants set forth below their affirmative defenses. By setting forth these affirmative defenses, Defendants do not assume the burden of proving any fact, issue, or element of a cause of action where such burden properly belongs to Relator. Defendants reserve the right to assert additional affirmative defenses to the extent that such defenses become known as a result of discovery or otherwise:

FIRST AFFIRMATIVE DEFENSE

(Failure to State a Claim)

The Second Amended Complaint is barred, in whole or in part, because it

1 fails to state a claim upon which relief may be granted.

2 **SECOND AFFIRMATIVE DEFENSE**

3 **(Statute of Limitations)**

4 Plaintiffs' claims are barred, in whole or in part, by the applicable statutes of
5 limitations.

6 **THIRD AFFIRMATIVE DEFENSE**

7 **(Estopel)**

8 Relator's claims are barred, in whole or in part, by the doctrine of estoppel.

9 **FOURTH AFFIRMATIVE DEFENSE**

10 **(No Vicarious Liability)**

11 Defendants are not vicariously liable, in whole or in part, for the acts alleged
12 in the Second Amended Complaint.

13 **FIFTH AFFIRMATIVE DEFENSE**

14 **(No Injury)**

15 Relator's claims based on alleged conduct by Defendants are barred, in
16 whole or in part, by the fact that the United States and the State of California has
17 suffered no actual injury because Defendants did not submit any false claims.

18 **SIXTH AFFIRMATIVE DEFENSE**

19 **(Third Party Fault)**

20 Damages and claims for which Relator seeks relief in the Second Amended
21 Complaint, if any, were caused by the acts, errors or omissions or other fault of
22 third parties and/or contributed to and/or other fault of third parties, for whose
23 conduct Defendants were not responsible.

24 **SEVENTH AFFIRMATIVE DEFENSE**

25 **(Speculative Damages)**

26 The alleged damages are speculative, uncertain, or contingent and are not
27 recoverable.

28

EIGHTH AFFIRMATIVE DEFENSE

(Vague, Ambiguous and Uncertain)

The causes of action and allegations in the Second Amended Complaint are vague, ambiguous and uncertain.

NINTH AFFIRMATIVE DEFENSE

(Fair Market Value)

The claims asserted in the Second Amended Complaint are barred, in whole or in part because the arrangements were commercially reasonable, at fair market value, not entered into in exchange for referrals, and did not induce referrals in violation of the Anti-Kickback Statute.

TENTH AFFIRMATIVE DEFENSE

Relator's claims are barred, in whole or in part by the exceptions and safe harbors applicable to the Stark Act, including, but not limited to, those identified by 42 U.S.C. § 1395nn, 42 C.F.R. §§ 411.350, 411.354, 411.355, 411.356 and 441.357.

ELEVENTH AFFIRMATIVE DEFENSE

(Anti-Kickback Statute Exceptions and Safe Harbors)

Relator's claims are barred, in whole or in part by the exceptions and safe harbors applicable to the Anti-Kickback Statute, including but not limited to, those identified by 42 U.S.C. §§ 1320a-7a, 1320a-7b and 42 C.F.R. § 1001.952.

TWELFTH AFFIRMATIVE DEFENSE

(California False Claims Act Exceptions and Safe Harbors)

Relator's claims are barred, in whole or in part, by the exceptions and safe harbors applicable to the California False Claims Act, including but not limited to, those identified by Business and Professions Code §§ 650 et seq., including § 650.02 and its regulations.

THIRTEENTH AFFIRMATIVE DEFENSE

(Referrals)

Relator's claims are barred, in whole or in part, because there were no referrals within the definition set forth in 42 C.F.R. § 411.351.

FOURTEENTH AFFIRMATIVE DEFENSE

(Materiality)

The claims are barred, in whole or in part, because none of the alleged statements made by Defendants were material to the decision of any government healthcare program to pay any healthcare claim.

FIFTEENTH AFFIRMATIVE DEFENSE
(Laches)

Relator's claims for relief are barred by the doctrine of laches.

SIXTEENTH AFFIRMATIVE DEFENSE

(Excessive Damages)

To the extent that any financial penalties or treble damages authorized under the False Claims Act exceed any actual loss incurred by the federal government as a result of any claims paid, such damages or financial penalties would constitute an excessive fine under the Eighth Amendment of the U.S. Constitution and would be void.

SEVENTEENTH AFFIRMATIVE DEFENSE
(Public Disclosure Bar)

Relator's claims are barred, in whole or in part, because substantially the same allegations or transactions alleged in this action were publicly disclosed and Relator is not an original source of the information under 31 U.S.C. § 3730(e)(4) and Cal. Gov't. Code § 12652(d)(3).

EIGHTEENTH AFFIRMATIVE DEFENSE
(First to File)

Relator's claims for relief are barred, in whole or in part, to the extent that

1 she was not the first to file a complaint based on these allegations under 31 U.S.C.
2 § 3730(b)(5) and Cal. Gov't. Code § 12652(c)(10). Defendants assert this defense
3 based on the possibility that there remains another, still-sealed qui tam action
4 asserting similar claims.

5 **NINETEENTH AFFIRMATIVE DEFENSE**

6 **(Unclean Hands)**

7 Relator's claims are barred, in whole or in part, by Relator's own wrongful
8 conduct and unclean hands.

9 **TWENTIETH AFFIRMATIVE DEFENSE**

10 **(Additional Affirmative Defenses)**

11 Defendants reserve the right to add additional affirmative defenses as
12 discovery progresses.

13 **DEFENDANTS' PRAYER FOR RELIEF**

14 WHEREFORE, Defendants respectfully request:

- 15 1. Judgment dismissing the Second Amended Complaint with
16 prejudice;
- 17 2. Judgment denying all relief requested by Relator and granting
18 Defendants' attorneys' fees and costs in defending against Relator's
19 Second Amended Complaint; and
- 20 3. Such other and further relief as this Court deems just and equitable.

21 Dated: May 24, 2022

22 Respectfully submitted,

23 LATHAM & WATKINS LLP

24
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